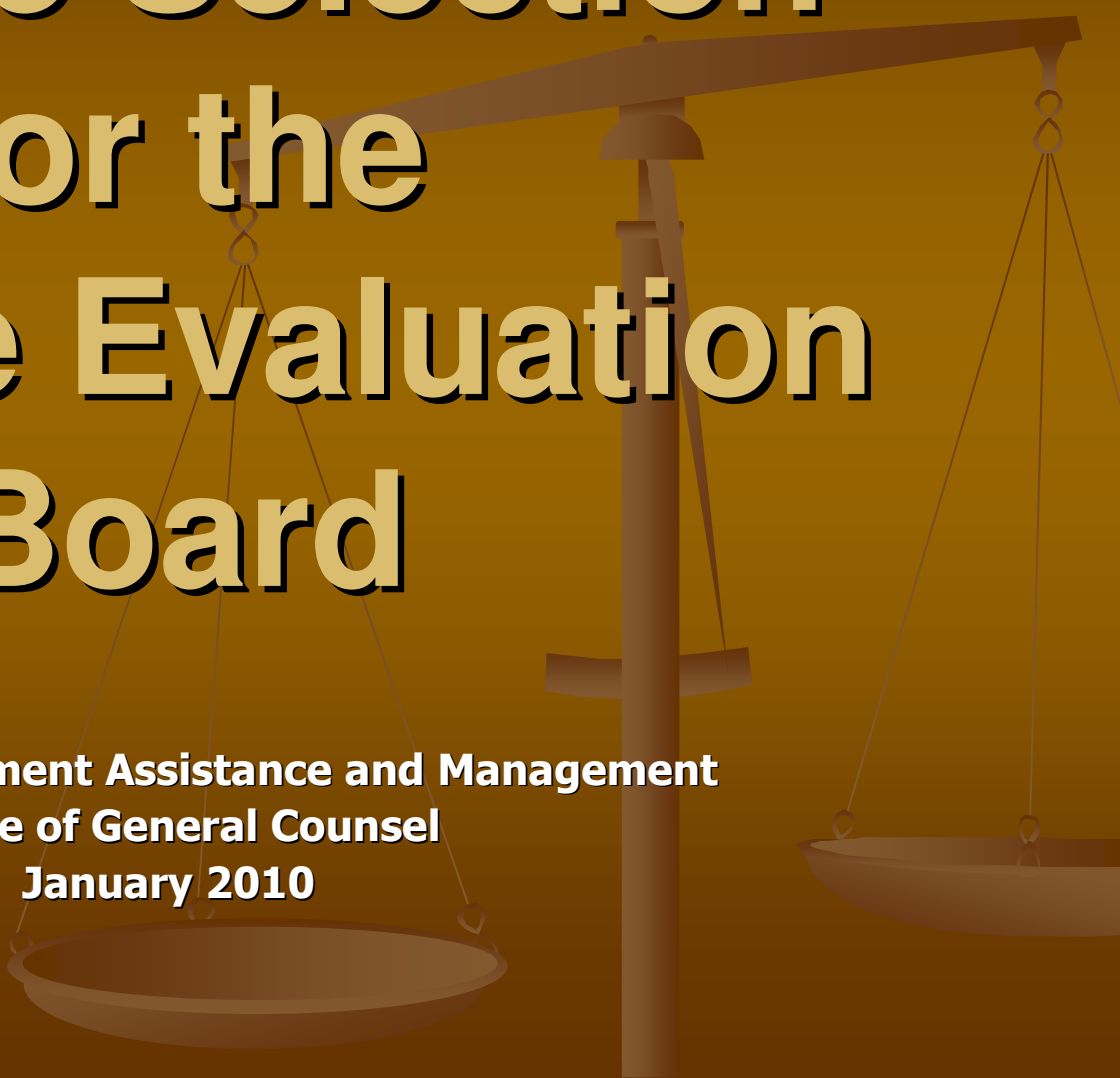


# **Source Selection for the Source Evaluation Board**



**Office of Procurement Assistance and Management  
Office of General Counsel  
January 2010**


# Preface

The information contained in these briefing materials is intended to provide a general orientation to Source Evaluation Boards (SEB) for the conduct of major acquisitions conducted pursuant to the Federal Acquisition Regulations (FAR) Part 15. This information consists of (1) certain regulatory information from the FAR and the Department of Energy Acquisition Regulation (DEAR), (2) other prescribed requirements, and (3) information derived from common practices and lessons learned from other acquisitions. This orientation material is not a substitute for the SEB's reading and understanding of the applicable regulations and appropriately applying the regulations and good business judgment to the particular circumstances of the acquisition. In addition these briefing materials are not intended to cover every aspect of the acquisition process. While the focus of these materials is toward major acquisitions, its principles may be applied, as appropriate, for other competitive acquisitions as well.

This information is internal DOE briefing material. The information contained in these materials does not form and should not be construed to convey any rights to third parties.

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Source Selection for the Source  
Evaluation Board

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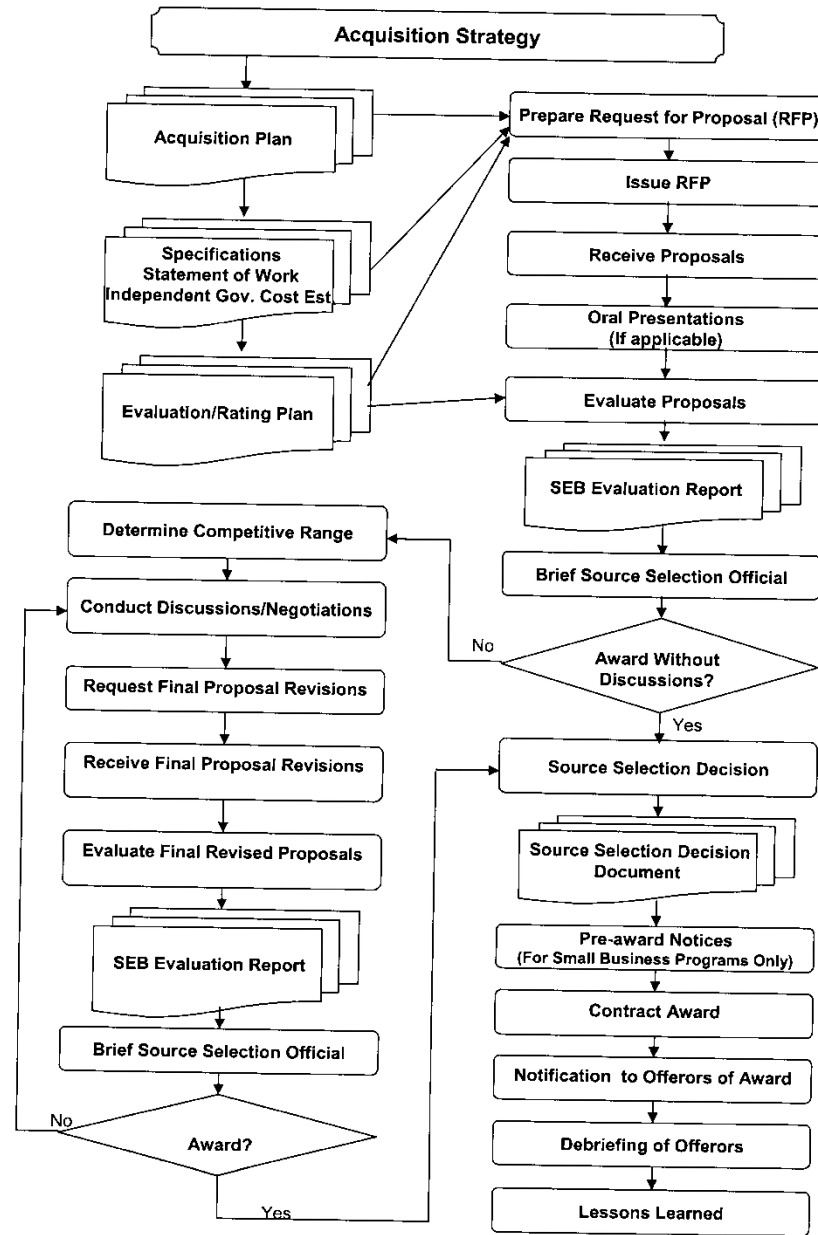
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Source Selection for the Source  
Evaluation Board

# Introductions and Purpose

- Source selection is critical to mission accomplishment
- Brings together many disciplines and people – some veterans, some rookies
- Goal – to get a common understanding of the process and of the issues that arise – not to make you masters in contracting
- Organization – walk through the process in the order the steps occur

# TYPICAL FLOW OF SOURCE SELECTION



# What is Source Selection?

- “Source selection” is the selection process used in competitive, negotiated contracting to select the proposal that offers the best value to the Government
- The source selection process is governed by statute and regulations
- “Best value” means the expected outcome of an acquisition that, in the Government’s estimation, provides the greatest overall benefit to the Government in response to the Government’s requirement
- **Key Tenets of Best Value Source Selection**
  - Full and open competition
  - Integrity of the participants and the process
  - Effective communication with offerors
  - Clarity of solicitation
  - Fairness to offerors
  - Checks and balances in the process
- The Government official responsible for selecting the winning offeror in a negotiated procurement is the Source Selection Official (SSO)
- The Source Evaluation Board (SEB) and the Contracting Officer are charged with the responsibility of conducting the acquisition in a manner that allows the SSO to make the best value decision
  - The SEB works for the SSO

Source Selection for the Source  
Evaluation Board

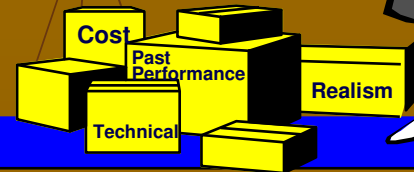
# Source Selection Goal

- Keep the end in mind – make good decisions
- Create a contract under which DOE receives needed goods and/or services in a way that is enforceable and administrable
- Enter into that contract with the offeror that will provide DOE with the best combination of technical benefits and cost to the Government
- Meet our commitments to the public and the competitors

# Best Value The Challenge

Based upon an integrated assessment Offeror C was chosen

Best government team I've ever seen!



"Best value" means the expected outcome of an acquisition that, in the Government's estimation, provides the greatest overall benefit in response to the requirement. (FAR 2.101)

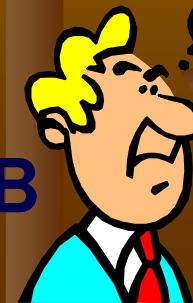
My technical approach was better.



A

Source Selection for the Source Evaluation Board

But my price is lower.



B

# Best Value Continuum

## (FAR 15.101)

### ■ Tradeoff Process

- Permits tradeoffs between price and non-price factors
- May award to other than the lowest priced proposal
- The perceived benefits of the higher priced proposal shall merit the additional cost & the rationale for the tradeoff must be documented in the file

### ■ Lowest Price Technically Acceptable

- Proposals are not ranked
- No tradeoffs allowed

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# Best Value using Tradeoff Process

**Integrated Assessment + Price/Technical Trades**



**Comparison to  
Factors and Subfactors**

**+**

**Comparison of  
Offerors**

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# Source Evaluation Board

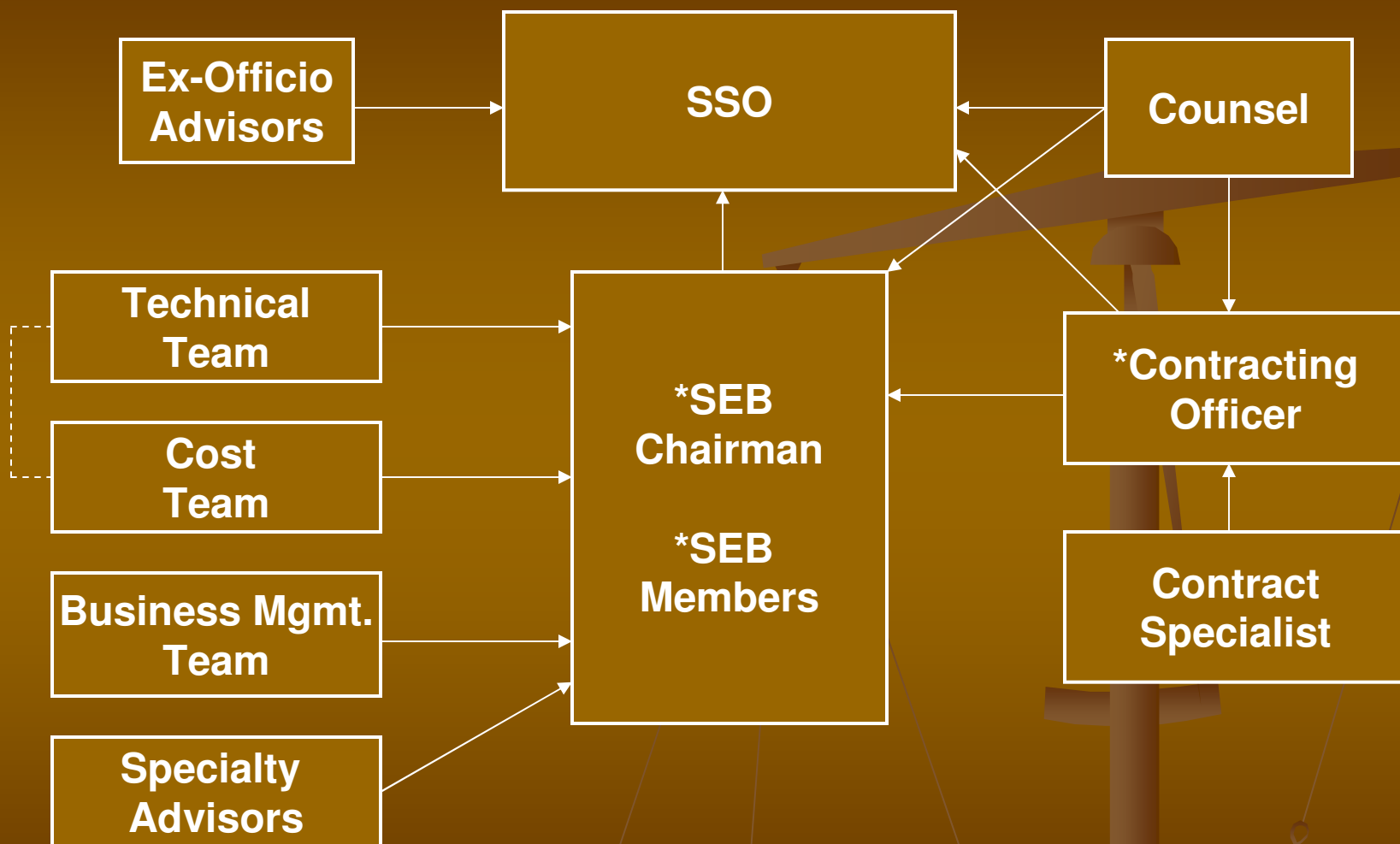
- **The SSO appoints the SEB Chair and SEB voting members**
  - The use of an Executive Secretary (1102) is strongly encouraged
- **The purpose of the SEB is to solicit and evaluate proposals and report its evaluation results to the SSO**
  - Evaluation must be consistent with the RFP and the Rating Plan
- **Composition of the SEB (FAR 15.303(b)(1))**
  - Membership should be tailored for the particular acquisition to assure a comprehensive evaluation of proposals
  - Includes a balanced team of experts in various fields based on what is being acquired
  - The voting and non-voting members include, as appropriate, personnel in the areas of contracting, legal, logistics, technical, and other expertise
  - Members, as a collective group, should have sufficient experience in RFP development and proposal evaluation
  - Responsibilities of individual team members are defined based on their knowledge and specialty/expertise
  - Specialty evaluation teams may be needed to support the SEB, e.g., technical, cost, business, safety, human resources, etc.

# Source Evaluation Board (Cont'd)

- **Composition of the SEB (FAR 15.303(b)(1))**
  - SEB must function as a team to be successful
  - Voting members should be full-time participants
  - Document control is critical
- **Goal of the SEB**
  - To attain the best competitive proposal for SSO selection

Source Selection for the Source  
Evaluation Board

# Source Evaluation Board



\*The Contracting Officer may also serve as the SEB Chairman or an SEB member.

Source Selection for the Source  
Evaluation Board

# We Each Have a Role to Play



Gena and Jonathon run Little Falls. Note the "air brace."

Source Selection for the Source  
Evaluation Board

# Source Evaluation Board

- **Contractor personnel may be non-voting members or advisors if special expertise is required**
  - Certain DOE internal approvals and nondisclosure procedures are required (DEAR 915.207-70(f)(2) and (3); FAR 37.203(d) and 204)
    - Written determination that available Federal employees do not have the requisite expertise
    - Approved by the SSO
    - Concurrence by the HCA
  - RFP must advise offerors if non-Federal personnel may be used in the evaluation (DEAR 915.207-70(f)(4))

# Source Evaluation Board

## ■ Training

- SEB, as a group, should consider attending a training course on source selection and oral presentations if being utilized
- Provides common guidance to entire SEB during solicitation and evaluation process
- Provides a common basis for establishing a cohesive team
- Bringing a course on-site is cost effective for SEB and advisors
- Course vendors will tailor course to SEB's needs

## ■ Co-location of SEB members

- Substantial benefit to enhance effectiveness among team
- Separation from normal work site insulates SEB from other work
- Enhances focus on the acquisition
- Facilitates interactions between members to achieve consensus

Source Selection for the Source  
Evaluation Board

# Contracting Officer Responsibilities

- After RFP release, is focal point for any inquiries (FAR 15.303(c))
- Leads the pre-evaluation briefing of SEB
- After proposal receipt, controls exchanges with offerors (FAR 15.306)
- Establishes the competitive range (FAR 15.306(c)(1))
- Ensures discussions are meaningful (FAR 15.306(d)(3))
- Ensures procurement procedures and processes comply with all statutory and regulatory requirements

# Contracting Officer Responsibilities

- Determines responsibility of offerors (FAR 9.1)
- Determines whether there are organizational conflicts of interest (FAR 9.5) or other issues of eligibility that would preclude award to an offeror
- Ensures the written narrative rationale supports assigned rating and evaluation is in compliance with the Rating Plan
- Awards contract(s) (FAR 15.504)
- Notifies unsuccessful offerors (FAR 15.503)
- Conducts pre and post-award debriefings, as applicable (FAR 15.505 and 15.506)

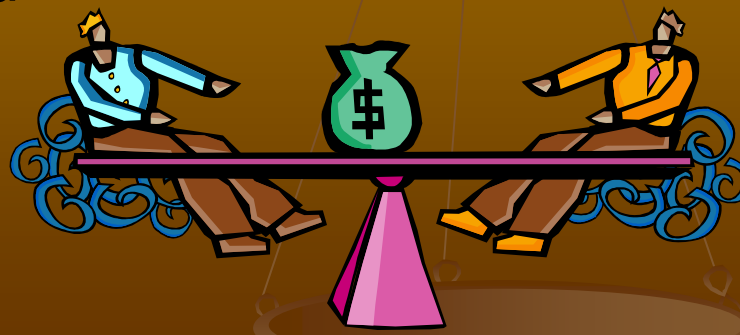
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# SEB Chair Responsibilities

- SEB Chair should act as a project manager, ensuring that schedules are established, the SEB Report is thorough and understandable, and work is accomplished in a timely fashion
- SEB Chair is the likely person to testify about the nature and reasonableness of the evaluation

# Ethics/Conflicts

- The Public Does Not Believe That Government Employees are Unbiased and Neutral
- Procurement Decisions Must Be Made With Limited Transparency Because of the Proprietary and Source Selection Information Involved



Source Selection for the Source  
Evaluation Board

# Conflicts and Procurement Integrity

- The Conflicts Rules are our protection against bias and lack of neutrality
- The Procurement Integrity Rules reinforce the Conflicts Rules and set the stage for the Government to make fair procurement decisions based on non-public information

Source Selection for the Source  
Evaluation Board

# Procurement Integrity

- The purpose of the Procurement Integrity Act is to preserve the integrity of the Federal procurement process and assure fair treatment of bidders, offerors and contractors.
- The Act Covers -
  - Current Federal Employees
  - Certain Former Employees
  - Bidders and Offerors
  - Other personnel involved in agency procurements and contracts
- Principles of Procurement Integrity
  - Non-Disclosure of Source Selection Information
  - Post-Employment Restrictions
  - Conflict of Interest Principles

Source Selection for the Source  
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# Procurement Integrity – Non-Disclosure

- Proposal Information
  - Any contents of proposals
  - Number or names of offerors (DOE has publicly disclosed such information with permission of offerors)
- Source Selection Information
  - Source selection or evaluation plans
  - Reports of evaluation panels
  - Competitive range or SEB reports
- CO can disqualify offeror for “unfair competitive advantage” in obtaining information

Source Selection for the Source  
Evaluation Board

# Procurement Integrity – Non-Disclosure

- Access to information about procurement relates to position on acquisition team – does not automatically include the recipient's management
- Senior Management officials are designated as *ex officios* where they need to be aware of details of procurement
- Check with contracting officer when in doubt

# Procurement Integrity – Post-Employment Restrictions

- Who is Darlene Druyen and why did she go to Jail?



Source Selection for the Source  
Evaluation Board

# Procurement Integrity – Post-Employment Restrictions

- Discussing prospective employment with prospective offeror is prohibited
  - Prohibition applies to employee and offeror
  - If offeror makes contact, report it
- One-year prohibition on accepting compensation from awardee
  - Applies to CO, SSO, SEB members, program manager and others involved in acquisition
  - May work for division or affiliate that does not produce same product or services
  - Should request ethics advisory opinion from agency whenever in doubt
- Civil and criminal penalties applicable

# Procurement Integrity – Related Representational Prohibitions

- No “switching sides” -- former employee involved in “particular matter” may not switch sides to represent another person
- Lifetime prohibition -- former employee may not communicate to influence the government particular matter when employee had participated “personally and substantially” in official capacity
- For two years after leaving federal service -- former federal employee may not communicate with intent to influence the government on particular matter pending under his/her official responsibility for one year before leaving service
- Criminal penalties under 18 U.S.C. ' 207

# Procurement Integrity – Conflicts of Interest

- General rule – “to avoid strictly any conflict of interest or even the appearance of a conflict of interest” (FAR 3.101-1)
- Issues – former employers, family members, subcontractors
- If current job requires interaction with contractor, be careful that they do not affect SEB responsibilities and objectivity
- Social relationships lead to appearances of conflict even if no bias
- Avoid or minimize social interactions with offerors or potential offerors

# Procurement Integrity – Appearance of Impropriety

- Disclose to Contracting Officer anything that might be questionable
  - Don't dismiss a connection as *de minimis* – consider ability of disappointed bidder to distort or exaggerate
  - Disclose any social or private financial relationship with anyone who works for offeror or potential offeror
  - Disclose family member's association with offeror
  - Disclosure when event occurs will ensure the matter is documented if questions arise later
- Specific Briefing on Procurement Integrity Act by Counsel is recommended
- Even if relationship/act does not result in sustained protest
  - Relationship/act may be embarrassing to agency
  - May require removal of SSO or SEB member during evaluation

# Procurement Integrity – Conflicts Summary

- Annual Ethics Training Review
  - Cannot Take Official Action That Has the Potential to Affect Financial or Other Interests
  - Avoid Appearance of Impropriety
- Review Before Exposure to Procurement Sensitive Information
  - Be sure the CO and counsel to the procurement are aware of anything that might be brought up later or that might mature into a conflict

# Acquisition Planning is Critical to Success

- ACQUISITION PLANNING - Means the process by which the efforts of all personnel responsible for an acquisition are coordinated and integrated through a comprehensive plan for fulfilling the agency need in a timely manner and at a reasonable cost.
- MARKET RESEARCH (FAR Part 10) – Conducted to determine if commercial items or non-developmental items are available to meet the Government needs or could be modified to meet the Government needs.
  - Also used to determine suitability for small business set-aside or small business subcontracting opportunity requirements (see FAR Part 19).
- LIFE CYCLE COSTS – Means the total cost to the Government of acquiring, operating, supporting, and disposing of the items being acquired.

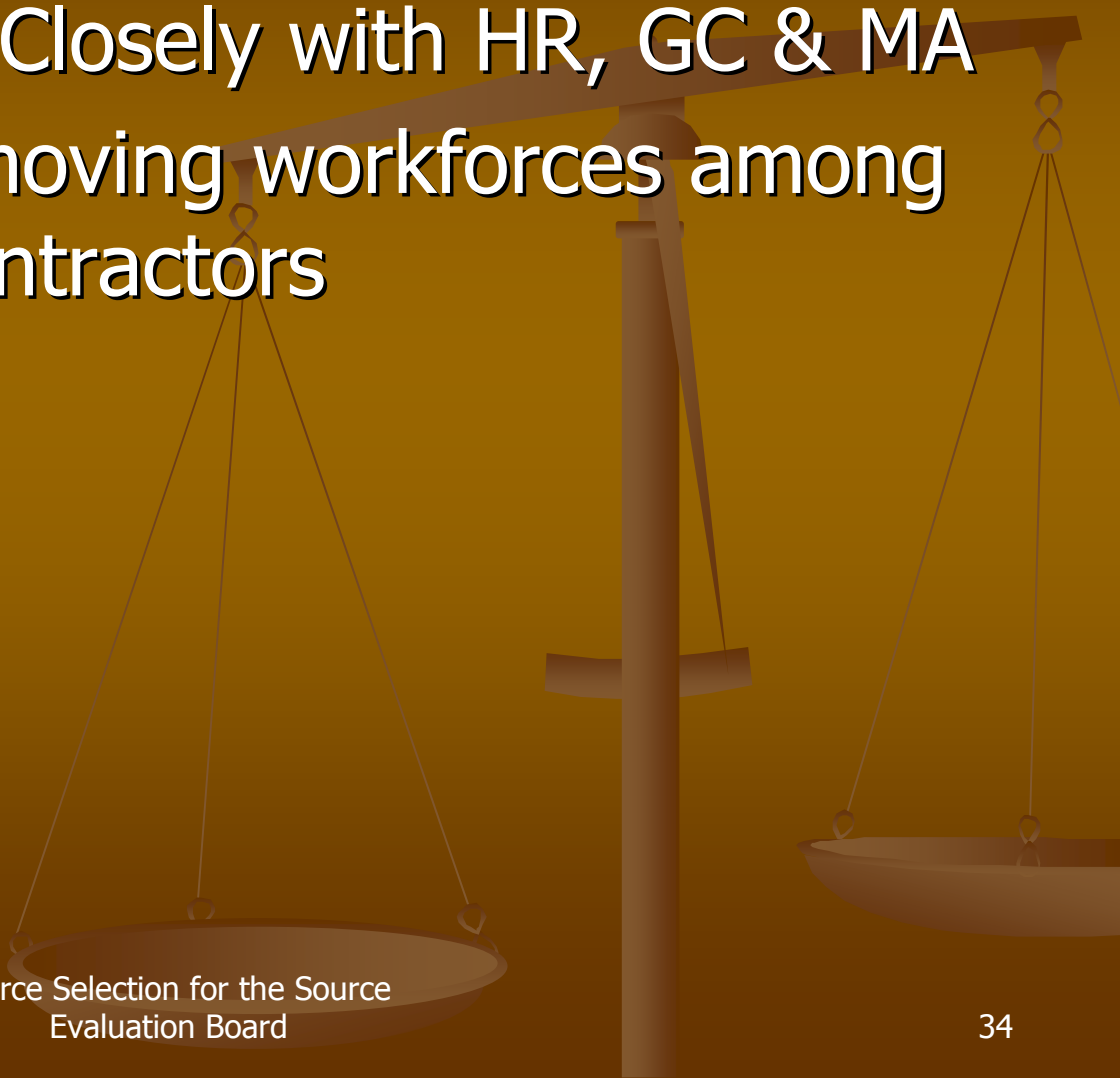
# Acquisition Planning is Critical to Success

- **Energy System Acquisition Advisory Board (ESAAB) Critical Decisions (DOE Order 413.3)**
- **Plan Includes:**
  - Requirements
  - Schedule
  - Alternatives
  - Risks
  - Government Furnished Services and Information
  - Data Packages
  - Human Resource Issues
  - Pre-award and Contract Administration Resources
- **Acquisition Planning Starts As Soon as the Requirement is Identified (Prior to the SEB Being Appointed)**
- **SEB Normally Completes the Plan**
- **FAR Part 7, DEAR Acquisition Guide Chapter 7**

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# Acquisition Planning – PENSION/BENEFITS

- Work Early and Closely with HR, GC & MA
- Caution about moving workforces among contracts/subcontractors



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# Schedule for the Acquisition

- **Make it realistic**
- **Consider two schedules – one with discussions and one without**
- **If a schedule is published, either internal to DOE or publicly, it will become the expectation**
- **Allow sufficient time for HQ business clearance review process, and appropriate and necessary senior management involvement**
  - RFP
  - SEB Reports
  - Source selection documents
  - HQ briefings
- **Allow sufficient time to hold discussions and to resolve protests**
  - Even if award without discussions is planned, discussions may become necessary depending on the proposals
  - While the schedule may not always be able to build in protest time, assure there is a contingency plan for continuing work, as necessary

# Examples

## **From December 13, 2004 Waste Complex Monitor: PADUCAH/PORTSMOUTH CLEANUP CONTRACTS TO BE AWARDED THIS MONTH**

*But Infrastructure Contracts Won't Be Awarded until February at the Earliest*

Despite indications this fall that the procurement could drag on for several more months (*WC Monitor*, Vol. 15 No. 41), the Dept. of Energy now expects to award the Paducah and Portsmouth environmental restoration contracts by the end of the year, *WC Monitor* has learned. The infrastructure contracts for the two sites, however, may not be awarded until February or later as DOE has not yet ruled out going into discussions with the bidders. Deputy Assistant Secretary for Operations Patrice Bubar, the Source Selection Official on all four procurements, said earlier this year that DOE's strategy of simultaneously awarding all four small business contracts has contributed to the delays in making the awards (*WC Monitor*, Vol. 15 No. 41). Bechtel Jacobs' current contract for the Paducah and Portsmouth sites has been extended through March 2005.

# Examples

## **From September 13, 2004 Waste Complex Monitor: NATIONAL CLEANUP, D&D CONTRACT AWARDS TO BE MADE THIS WEEK?**


After many stops, starts and false alarms over the past two months (*WC Monitor*, Vol.15 No. 33), it appears that the Dept. of Energy may finally be ready to award the long-awaited National Environmental Remediation/Waste Management and Demolition, Dismantlement and Removal contracts. DOE officials told *WC Monitor* that the awards will likely be made this week (Sept. 13). "I know you've heard it before, but it's more realistic this time," one DOE official said. Department officials have been going over the award justifications and other documentation with a fine tooth comb over the past few months, making sure DOE's case is solid in the event of a protest. Those reviews—from the Savannah River Operations Office, the Office of Environmental Management and the Office of General Counsel—are now largely complete, paving the way for the awards to be made. The Department believes the procurement is at high risk for a protest, as more than 100 bids were submitted for the approximately 15 indefinite delivery/indefinite quantity contracts.

# Schedule for the Acquisition

- Better to provide no information than information that turns out to be inaccurate
- Acquisition Forecast system requirements
- You will be done when you are done
- Start Planning Early!
- Creativity = Delay
- Change in Strategy = Delay
- Debate = Delay
- Delay = More Delay

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# Break



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# RFP Development – Standard Contract Format

- Most SEBs are doing “FAR 15 negotiated procurements”
- In a FAR 15 procurement, there is a standard format for the solicitation and contract
- Sections A-K = contract
  - Section B = pricing/payment
  - Section C = statement of work
  - Section H = special contract requirements
  - Section I = standard contract requirements, based on type of procurement
  - Section J = attachments
  - Section K = representations and certifications
- Section L = instructions to offerors
- Section M = selection criteria

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# RFP Development

## ■ Order of development

1st - statement of work (SOW) (section C)

- Defines requirement
- Can't define what to evaluate (Section M) until the requirement is defined

2nd - evaluation criteria (section M)

- Defines what portion of the SOW or capability is to be evaluated
- Can't write RFP instructions (Section L) until you define what is to be evaluated

3rd - RFP instructions (section L)

- Defines instructions for proposal submission as they relate to the defined SOW (Section C) and evaluation criteria (Section M)

4th - other RFP/contract requirements

- **While certain portions of the RFP can be developed concurrently, the above order of development should be a guiding principle**

# RFP Development

- **Tailor evaluation criteria and proposal instructions to the specific acquisition**
  - Don't copy evaluation criteria/instructions from another RFP without assuring the criteria/instructions fit the SOW and are what the SSO/SEB desires to consider in its evaluation
- **The SEB needs to think through what should be evaluated and how it will be evaluated**
- **It is critical that the SOW (section C), the evaluation criteria (section M), and the instructions (section L) be consistent**
  - If different people write each part, requires close coordination and review
  - Inconsistencies can result in changes in the RFP, delays in the acquisition, and less advantageous offers
- **Each SEB member needs to be involved in and understand the what, why, and how of the evaluation criteria, the SOW, and the proposal instructions**
- **Ensure the individual or team who will be involved in the cost evaluation is involved in preparing the cost instructions**

# RFP Development – Draft RFPs

(FAR 15.201; 5.101(b); DOE AG Ch. 15.1, Part I)

- Publishing a draft RFP for public comment is a technique for obtaining public input prior to issuing the final RFP
  - Not a required step in the process
- Obtains early involvement of interested parties
  - Helps stimulate competition interest
  - Allows teaming arrangements to be formed
  - Gets feedback on RFP from prospective offerors
- Benefits:
  - Awards without discussions
  - New or complex SOW requirements
  - Unique contract requirements
    - Cost sharing
    - Technology issues
- Does not require full RFP; Include key portions, *e.g.*, SOW, evaluation criteria, unique provisions

# Statement of Work

## Section C

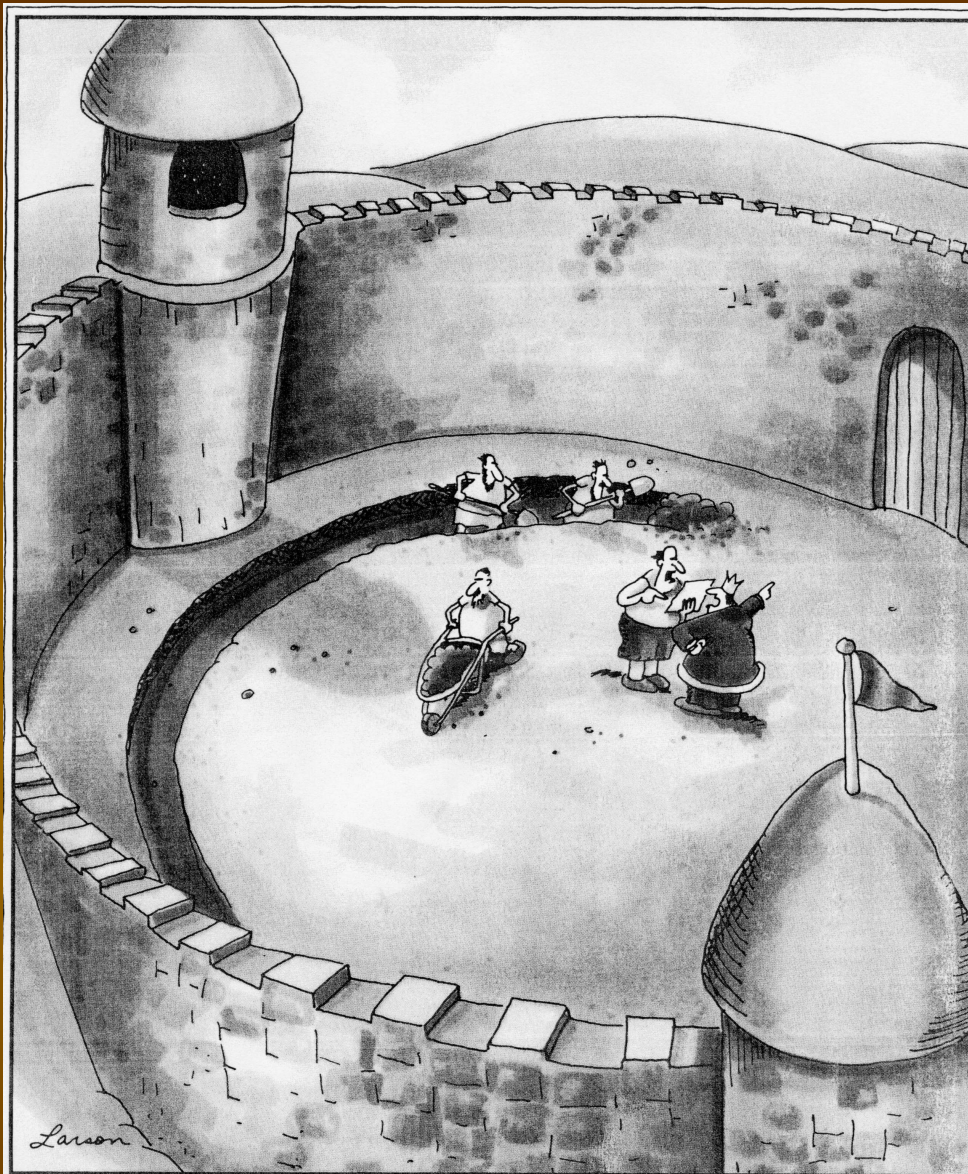
(FAR 37.6; Acquisition Guide, Chapter 37; and Performance-Based Service Contracting Toolkit on Professionals Web Page)

- **The Statement of Work (SOW) falls into one of two categories –**
  - (1) Functional/performance requirements (Performance-based)
  - (2) Design requirements
- **Functional/performance SOW describes the function or performance desired (the what) and allows the offerors to propose the process (the how) to accomplish the objectives**
  - Functional/performance requirements should be used to the maximum extent possible
  - This method should produce better technical solutions at better prices as a result of offeror innovation
  - Contractor gets paid based upon the fulfillment of predetermined contractual results, *i.e.*, payment based on degree of performance
  - Four Elements of a Performance Work Statement:
    - (1) Performance Requirements
    - (2) Performance Standards
    - (3) Incentives
    - (4) Quality assurance/surveillance plan

# Statement of Work

## Section C

- **Design requirements describe both the objective (the what) and the process (the how) to be followed to accomplish the objective**
  - May result in less than the optimal technical solution
- **When defined objectives are not known, such as environmental remediation actions in which the final environmental impact statement (EIS) and record of decision (ROD) has not been completed, the RFP should define the end point criteria or end state upon which the proposal and contract is to be based**
- **Don't include duplicate contract terms in the SOW that are in other sections of the contract or include RFP-like provisions from section L or M in the SOW**
- **The content and nature of the SOW will drive other important aspects of the RFP and contract**
  - Contract type: Cost-plus-award-fee, cost-plus-incentive-fee, or fixed price?
  - Evaluation criteria: What are the most important aspects of the SOW to evaluate?
  - Performance requirements: Are performance requirements adequately defined to allow effective contract administration?



Suddenly, a heated exchange took place between the king and the moat contractor.

Source Selection for the Source  
Evaluation Board

# Statement of Work – Performance Based Acquisition Misconceptions

## ■ Government loss of control

### Solution:

- Government review and approval
- Enforcement of the performance requirements
- If necessary, negotiate revisions to the performance requirements (do not dictate design changes)

## ■ Too administratively burdensome

### Solution:

- Integrated product team includes government inspectors
- Contractor self inspection (example BSC)

# Statement of Work – General Recommendations

- Specify a work breakdown structure
  - Needed for Earned Value Management
  - Allows for efficient analysis of proposed costs  
(Comparing proposed costs to independent government cost estimate (IGCE))
- Do not duplicate requirements in contract schedule and SOW

# Evaluation Factors For Selection

## Section M

(FAR 15.304)

- **Represent key areas of importance to be considered in selection decision**
  - Not necessary to evaluate all areas of the statement of work
  - Limit the evaluation criteria to those critical few
  - Too many evaluation criteria add unnecessarily to the burden, complexity, and cost to both the offerors and the government
- **Identify meaningful discriminators among proposals**
  - Define what will distinguish offerors
  - Reveal measurable differences or risk levels among proposals

# Evaluation Factors For Selection

## Section M

(FAR 15.304)

- **Required areas of evaluation** (FAR 15.304(c))
  - Price or cost
  - Quality of product or service such as –
    - Compliance with solicitation requirements
    - Technical excellence
    - Management capability
    - Personnel qualifications
    - Experience (what has been performed)
  - Past performance (what has been the quality of the performance on past contracts)
  - Extent of small business participation in acquisitions not set-aside for small business

# Evaluation Factors For Selection

## Section M

(FAR 15.304)

- **RFP must specify the evaluation factors and any significant sub-factors and their relative importance**
- **RFP must specify the relative importance of the individual non-cost/price evaluation factors to one another:**
  - Descending order of importance
  - Significantly more important than
  - Twice as important
  - Actual numerical weighting may be specified in the RFP. Typical numerical weighting ranges –
    - Technical 30-45%
    - Business Management 15-20%
    - Key Personnel 15-30%
    - Project Management 15-25%
    - Experience 5-15%
    - Past Performance 5-10%

Source Selection for the Source  
Evaluation Board

# Evaluation Factors For Selection

## Section M

(FAR 15.304)

- **RFP must specify the relative importance of all (as a whole) of the non-cost/price evaluation factors relative to the cost/price factors** (FAR 15.304(e))
  - Significantly more important than cost or price
  - Approximately equal to cost or price
  - Significantly less important than cost or price
- **Offerors need to understand how their proposals will be evaluated so they can better prepare their proposals competitively**

# Evaluation Factors for Selection – Experience Section M

- Request experience information that is similar in type, scope, and complexity to that of the RFP SOW
- Assure no overlap between experience and past performance – differing regulatory treatment
  - Experience is what offeror has performed and past performance is how well they have performed
  - Asking for “successful experience” is really asking for past performance
- Specify time period of experience, e.g., last 3 years, and whether more recent experience will be given greater consideration in the evaluation
  - Consider using the same time period for both experience and past performance

# Evaluation Factors for Selection – Experience Section M

- Specify whether, in addition to the offeror, the experience of predecessor companies, proposed subcontractors, parent companies, LLC members, joint venture members, etc. will be evaluated
- Evaluation of experience for individual entities needs to be considered in the context of what each entity is proposing to perform under the SOW
- Provide specific instructions in Section L as to which entities are to provide experience information

# Evaluation Factors for Selection – Past Performance Section M

(FAR 15.305(a)(2); DOE AG Ch. 15.1, Part V)

## ■ **Currency and relevancy of the information**

- Past performance information is usually requested for a specified period of time, *e.g.*, last three years.
- Request past performance information that is similar in type, scope, and complexity to that of the RFP SOW

## ■ **Source of the information**

- Advise offerors in the RFP that DOE may contact sources other than those references identified by the offeror for past performance information
- Ensure that an offeror's past performance on work at DOE facilities is considered
  - GAO holds agencies to a higher standard for considering the performance of its own contractors at the contracting site, because that information is so “close at hand”
  - NO OSTRICHES ALLOWED

Source Selection for the Source  
Evaluation Board

# Evaluation Factors for Selection – Past Performance Section M

(FAR 15.305(a)(2); DOE AG Ch. 15.1, Part V)

- **Context of the past performance information**
  - How difficult or risky was the work to perform?
  - Similarity and recentness of the work
- **General trends in performance**
  - Ensure there is adequate information upon which to base a trend in performance
  - Limited data point(s) is not necessarily an indicator of overall performance, *i.e.*, one client reference is not enough, request at least 2-3 references for each proposed entity
- **Consider offerors' compliance with small business and small disadvantaged business subcontracting plan goals, if applicable**

Source Selection for the Source  
Evaluation Board

# Evaluation Factors for Selection – Past Performance

## Section M

(FAR 15.305(a)(2); DOE AG Ch. 15.1, Part V)

- **Specify whether, in addition to the offeror, the past performance of predecessor companies, proposed subcontractors, parent companies, LLC members, joint venture members, etc. will be evaluated**
  - Provide specific instructions in section L as to which entities are to provide past performance information
- **Consider requesting past performance for those activities which are listed under experience**
  - If a different set of experience is given than under past performance, the SEB may have to obtain more information under past performance related to the experience provided, *i.e.*, need an apples to apples comparison of experience to performance

# Evaluation Factors for Selection – Past Performance Section M

(FAR 15.305(a)(2); DOE AG Ch. 15.1, Part V)

- Evaluation of past performance for individual entities needs to be considered in the context of what each entity is proposed to perform under the SOW
- If no relevant performance record
  - Offeror must be evaluated neither favorably or unfavorably as stated in RFP
  - Examples for evaluation include:
    - Pre-determined score, e.g., midpoint of scoring range
    - Pre-determined adjectival rating as a “neutral”

Source Selection for the Source  
Evaluation Board

# Evaluation Factors for Selection – Past Performance

(FAR 15.305(a)(2); DOE AG Ch. 15.1, Part V)

## ■ **Methods of collecting data**

- Standard questionnaire in the RFP provides consistent information
- Tailor the questionnaire to the RFP; don't use generic questions
- Require offerors to send out questionnaire to references who submit directly to DOE; require offerors to follow-up with references to assure questionnaire submitted
- If references do not respond to questionnaire, DOE must use reasonable effort to attempt to acquire information from the references identified or from other sources
- DOE sources – PPIRS, award fee reports, IG reports

## ■ **Receipt of adverse past performance information (FAR 15.306(b)(1)(i))**

- If adverse past performance information is the determining factor preventing an offeror from being placed in the competitive range, the offeror must be given an opportunity to address adverse past performance information for which it has not had a prior opportunity to respond
- If award to be made without discussions, clarifications may be held with an offeror having adverse past performance (FAR 15.306(a)(2))
- If discussions are held, adverse past performance information would be an evaluated weakness which must be disclosed to the offeror during discussions
- Names of individuals providing reference information cannot be disclosed to the offeror (FAR 15.306(e)(4))

# Evaluation Factors for Selection – Key Personnel Section M

- **Normal evaluation is on experience, education, leadership, demonstrated performance (reference checks), and in some cases letter of commitment and oral presentations**
  - A standard resume form should be specified in the RFP
  - A standard reference form may be included in the RFP that the offeror provides to key personnel references for submission directly to DOE (similar approach to past performance)
  - If reference checks are not returned to DOE, SEB must use a reasonable amount of effort to obtain reference checks
  - Don't rely solely on the reference form; talking directly with a reference can provide valuable insight
  - If key personnel involve incumbent contractor employees, don't rely solely on SEB members' knowledge. Obtain "3rd party" reference input.
- **Evaluation of key personnel is often performed via a documented "interview" or a "test problem"**
  - Oral interview with the SEB with predetermined questions
  - Test problem with a predetermined problem scenario; key personnel team is given limited amount of time during the oral presentation to review the problem and present a group solution
  - Orals must be documented, e.g., video, audio, written record (transcription or notes), briefing slides (FAR 15.102(e))

# Evaluation Factors for Selection – Evaluation of Risk

## Section M

- **Evaluation of proposals must identify and document risk** (FAR 15.305(a))
- **Risk may be assessed in different manners**
  - Inherently through the relative strengths and weaknesses of each evaluation criterion
  - Through a separate risk evaluation criterion
- **Offerors may also be evaluated on their ability to identify risks of the work to be performed and proposed means they plan to use to mitigate those risks**

# Proposal Preparation Instructions

## Section L

- **Instructions on the preparation and submission of proposals must:**
  - Be clearly and precisely stated
  - Be keyed to the evaluation factors and subfactors
  - Describe the type, scope, content, and format of the information to be submitted
  - Describe the order in which proposal responses and materials are to appear
  - Be limited to the information needed for the evaluation – don't ask for information the SEB doesn't intend to evaluate
- **Think through what the SEB expects to see in the proposals based on the evaluation criteria and then write the instructions**
  - Don't just restate the evaluation criteria and ask for the offeror's approach to performing that particular aspect of the SOW
  - The instructions need to be meaningful and helpful to the offeror

Source Selection for the Source  
Evaluation Board

# Proposal Preparation Instructions

## Section L

- **There needs to be a balance between defining information to include in the proposal and allowing the offeror to exercise discretion, *i.e.*, allowing the SEB to see what the offeror knows**
- **Be careful not to put evaluation criterion (Section M) in the instructions (Section L)**
- **Be careful not to put proposal instructions in the contract provisions, *e.g.*, SOW, Section H**

# Cost Proposal Instructions

## Should:

- Be tailored to the procurement
  - Anticipate what kind of analysis will be required
  - Write instructions to obtain the cost information needed to support that type of analysis
  - For cost reimbursement contract awards, Cost Realism Analysis is required by FAR 15.404-1(d)(2)
- Be comprehensive, clear and informative
  - The objective is to obtain sufficient information in the cost proposal to adequately understand the amount and basis for the estimated cost in comparison to the technical proposal
  - Particularly important if award without discussions anticipated

# Cost Proposal Instructions – Info Needed to Support a Cost Realism Analysis

## ■ What the FAR says:

- Request information other than cost or pricing data
- Request only the information needed to conduct the analysis
- Permit each offeror to use its own submission format unless the contracting officer determines that a specific format is necessary


## ■ What we recommend:

- Require submission be consistent with WBS used in the IGCE
- Require submission by cost element – labor, fringe benefits, materials, subcontracts, other direct costs, overhead, and G&A (FAR 15.408, Table 15-2)
- Require costs to be proposed by year
- Labor hours and rates should be proposed by labor category
- Require assumptions and the basis of estimates
- Request information that supports the indirect rates proposed for newly formed offerors, e.g., LLC, when historical information is not readily available from a cognizant audit entity, e.g., DCAA<sub>65</sub>

# Cost Proposal Instructions – Info Needed to Support a Cost Realism Analysis

- What we recommend (continued):
  - **Require consistency and traceability between the cost & technical proposal**
    - State the consequences for the lack thereof
  - **When transition costs are included in the cost proposal, require any costs for incumbent personnel to be included**
  - **If the RFP provisions require the offeror to meet certain wage and benefit requirements, request information that demonstrates these requirements are being met**
  - **For specific and unusual costs that may be applicable to a specific location/site, provide guidance or at least draw attention to such costs, e.g., applicability or non-applicability of certain taxes at some DOE sites**

# Break



Source Selection for the Source  
Evaluation Board

# SEB Preparation

## Prior to Receipt of Proposals

- **Ensure all SEB members and all advisors understand the process and expectations**
  - Provide written information/guidance as appropriate
  - Hold meetings prior to receipt of proposals
  - Make sure everyone is ready to perform his/her job when proposals are received
  - Make sure everyone generally understands others' functions and how they fit into the process
- **Plan the details**
  - Steps and schedule for the evaluation process
  - Review the RFP evaluation criteria and rating plan
  - Receipt and safeguarding of proposals; limitations on where proposals can be taken
  - Review of conflict of interest certifications after receipt of proposals, *i.e.*, an unexpected offeror can affect previous certifications of advisors and SEB members
  - Review the confidentiality of proposals particularly related to normal management chain
  - Content and format of advisory reports, *e.g.*, identify strengths/weakness and no point scores; advisory reports are part of the official record
  - Participation in any oral presentations is "all or none" for specific individuals, *e.g.*, SEB members, certain advisors, and the SSO

Source Selection for the Source  
Evaluation Board

# Rating Plans

(FAR 15.305(a); DOE AG Ch. 15.1, Part III)

- **The purpose of a rating (scoring/evaluation) plan is to help evaluators assess a proposal's merit in relation to the evaluation criteria stated in the RFP**
  - Describes the methodology to be used in evaluating proposals
  - Ensures proposals are evaluated consistently against a uniform objective standard rather than proposal against proposal
  - Developed by the SEB and approved by the SSO
- **Rating plan consists of**
  - Evaluation factors and subfactors (as stated in the RFP)
  - Rating system, *e.g.*, adjectival, color coding, numerical, or a combination thereof
  - Evaluation standards or descriptions which explain the basis for assignment of the various rating system grades/scores

# Rating Plans

(FAR 15.305(a); DOE AG Ch.15.1,Part III)

## ■ Guidelines for developing standards for non-cost evaluation factors

- Define the standard by a narrative description that specifies a target performance level that the proposal must achieve in order to meet the factor or subfactor
- Uses a scale of words, colors, numbers, or other indicators to denote the degree to which proposals meet the standards for each factor or subfactor
- Describe guidelines for higher or lower ratings as compared to the standard
- Avoid overly general standards
  - Makes consensus among evaluators more difficult
  - May obscure the differences between proposals

## ■ Common rating systems

- Adjectival: Outstanding, Good, Satisfactory, Marginal, Unsatisfactory
- Color: Blue, Green, Yellow, Orange, Red
- Numerical: 0 -10 or 0 -100

Source Selection for the Source  
Evaluation Board

# Rating Plans – Sample

(FAR 15.305(a); DOE AG Ch.15.1,Part III)

Numerical	Adjectival	Color	Definition/Standard
10	Excellent	Blue	Proposal demonstrates <u>excellent understanding</u> of requirements and approach that <u>significantly exceeds performance</u> or capability standards. Has <u>exceptional strengths</u> that will <u>significantly benefit</u> the Government.
8	Good	Green	Proposal demonstrates <u>good understanding</u> of requirements and approach that <u>exceeds performance</u> or capability standards. Has <u>one or more strengths</u> that will <u>benefit</u> the Government.
5	Satisfactory	Yellow	Proposal demonstrates <u>acceptable understanding</u> of requirements and approach that <u>meets performance</u> or capability standards. Acceptable solution. <u>Few or no strengths</u> .
2	Marginal	Orange	Proposal demonstrates <u>shallow understanding</u> of requirements and approach that only <u>marginally meets performance</u> or capability standards necessary for minimal but acceptable performance.
0	Unsatisfactory	Red	<u>Fails to meet performance</u> or capability standards. Requirements can only be met by major changes to the proposal.

# Rating Plans

(FAR 15.305(a); DOE AG Ch. 15.1, Part III)

- **The description of the basis for the assignment of the various rating systems is the most important aspect to define for all systems, *i.e.*, Outstanding vs. Good, Green vs. Yellow, 80 vs. 90**
- **Color and Adjectival are similar**
  - May force evaluator's emphasis on strengths and weaknesses that equate to color or adjective rather than relying on a numbering system
- **Numerical**
  - Still requires a definition for assigning number as with color or adjectival
  - Use staggered numeric system, *e.g.*, 0, 2, 5, or 50, 75, 100, etc. to help separate proposal scores
  - May cause "public school" mentality for scoring and less reliance on actual strengths and weaknesses
  - Even when numerical systems are utilized, substantive strengths and weaknesses must still be identified to support the numerical score

# Oral Presentations

(FAR 15.102)

- Are the delivery of a portion of the proposal – test problem, key personnel interviews
- Anomaly of Government Procurement – Sales Pitch + Contract Combined in Proposal
- Contract terms must be in writing; use of oral presentations decouples sales pitch from contract terms
- Oral presentations substitute for or augment written information
- Can be effective in streamlining the source selection process
- Oral presentations are not “oral discussions” which are negotiations leading to the opportunity for the offeror to revise its proposal (FAR 15.306(d))

# Oral Presentations

## (Continued)

- **RFP provides specific instructions on method, timing, and content of oral presentation**
  - Slides to present at the oral presentation, if applicable, are provided to the SEB at a common time, usually when proposals are due
  - Strict time limitations for the oral presentation must be specified in the RFP and enforced by the CO
  - Offerors may want to see the location (room) of the oral presentations
  - RFP must specify what the Government will/will not provide, e.g., overhead projectors, marker boards, tables/chairs, sound equipment, etc.
  - Questions may be asked of the offeror to facilitate the SEB's understanding of the oral presentation
  - Offeror is not allowed to modify its proposal via the oral presentation
  - Offerors will spend considerable time in rehearsing for oral presentations depending on the extent of the content; both advance prepared presentations and spontaneous situations like interviews or test problems

# Oral Presentations

## (Continued)

- **All SEB members must be present at all oral presentations**
- **SSO may choose to attend oral presentations**
  - SEB should conduct the oral presentation; SSO is present to listen
  - SSO must attend “all or none” of the offerors’ presentations
- **Oral presentations are well suited for evaluation of**
  - M&O contracts
  - Support services
  - Business management/project management
  - Key personnel capabilities through “interview” or “test problem”

# Oral Presentations

(Continued)

- **Oral presentations are not well suited for evaluation of**
  - Experience/past performance
  - Technically complex approaches
  - Design/construction
  - Production
  - Large number of proposals, depending on the extent of the oral presentation material
- **If award is to be made without discussions, care must be taken in the oral presentations so as not to unintentionally engage in discussions and allow the offeror to revise its proposal**
- **If the Government inadvertently enters into discussions, they must be conducted in accordance with FAR 15.306, Exchanges with offerors, after receipt of proposals and FAR 15.307, Proposal revisions**

# Oral Presentations

## (Continued)

### ■ Helpful guides

- DOE Acquisition Guide, Chapter 15.1, Part VI, “Guidelines for the Use of Oral Presentations,” DOE Professionals Web Page
- What to Record
- How to Record
- Communications During the Presentation

Source Selection for the Source  
Evaluation Board

# Cost Realism & Probable Cost

(FAR 15.404-1; DOE AG Ch. 15.1, Part VIII)

- **Cost realism: The review & evaluation of specific elements of each offeror's proposed cost estimate to determine whether the estimated proposed cost elements...**
  - Are realistic for the work to be performed
  - Reflect a clear understanding of the work requirements
  - Are consistent with the unique methods of performance and materials described in the offeror's technical approach
- **Cost realism analysis is performed on cost-reimbursement contracts to determine the probable cost of performance for each offeror**
  - Probable cost should reflect the Government's best estimate of the cost of any contract that is most likely to result from the offeror's proposal

# Cost Realism & Probable Cost – GAO View

When an agency evaluates proposals for the award of a cost-reimbursement contract, an offeror's proposed costs are not considered controlling because, regardless of the costs proposed, the government is bound to pay the contractor its actual and allowable costs. Federal Acquisition Regulation (FAR) sections 15.305(a)(1); 15.404-1(d). Consequently, and agency must perform a cost realism analysis to determine the extent to which an offeror's proposed costs represent what the contract should cost, assuming reasonable economy and efficiency.

# Cost Realism & Probable Cost – GAO View (Continued)

An agency's cost realism analysis requires the exercise of informed judgment and we review an agency's judgment in this area only to see that the cost realism analysis was reasonably based and not arbitrary. The analysis need not achieve scientific certainty; rather, the methodology employed must be reasonably adequate and provide some measure of confidence that the agency's conclusions about the most probable costs under an offeror's proposal are reasonable and realistic in view of other cost information reasonably available to the agency as of the time of its evaluation.

# Cost Realism & Probable Cost

(FAR 15.404-1; DOE AG Ch. 15.1, Part VIII)


- **Probable cost is determined by adjusting each offeror's proposed cost, when appropriate, to reflect any additions or reductions in cost elements to realistic levels based on the results of the cost realism analysis**
  - Wherever possible, make adjustments using the Offeror's own proposed approach and cost information.
  - Probable cost may differ (higher or lower) from the proposed cost
  - Significant differences between proposed cost and probable costs may signal increased performance risks
- **The probable cost is used for purposes of evaluation to determine the best value to the Government**
  - $\text{Evaluated Price} = \text{Probable Cost} + \text{Proposed Fee}$

# Cost Realism & Probable Cost

(FAR 15.404-1; DOE AG Ch. 15.1, Part VIII)

- **Cost realism analysis and probable cost determination must be supported by**
  - **Technical analysis**
    - Requires individuals with specialized knowledge and experience to evaluate feasibility of technical approaches, processes, facilities, labor, materials, etc.
  - **Field Pricing (FAR 15.404-2)**
    - Requires individuals with specialized knowledge and experience to evaluate labor rates, indirect rates, escalation, etc.
    - May require input or audit from the cognizant audit agency, e.g., Defense Contract Audit Agency (DCAA)
  - **Independent Government Cost Estimate (IGCE)**

# Break



Source Selection for the Source  
Evaluation Board

# Technical Evaluation of Cost Proposals

- **Ties Technical and Cost Proposals Together**
- **Answers the following questions:**
  - Is the technical approach reflected in the cost proposal?
  - Does the cost proposal cover all the SOW requirements?
  - Are costs proposed for work that is not in the SOW?
  - Are the proposed costs reasonable?

# Technical Evaluation of Cost Proposals

- Technical evaluation includes:
  - types and quantities of materials
  - labor hours
  - skill mix
  - transition effort
  - equipment types and quantities
  - facilities
  - types and quantities of lab analysis
  - types and quantities of secondary waste streams
  - schedules
  - critical path analysis

# Technical Evaluation of Cost Proposals

## SEB Example

The SEB compared the proposed technical approach with the proposed costs to determine whether the offeror had proposed adequate and appropriate resources for the approach proposed. The SEB examined these points in the proposals section by section and WBS element by WBS element. The SEB reviewed the quantities and mix of labor proposed, waste quantities proposed, the level and kind of subcontracting proposed, offeror's adherence to regulatory milestones and activity durations, and evaluated whether the proposed resources were aligned with the proposed technical approach.

# Technical Evaluation of Cost Proposals

## SEB Example (continued)

The SEB examined cost realism to identify discrepancies that would result in adjustments necessary to calculate the most Probable Cost for each proposal. The SEB used the data included in the RFP, input from the Corps, professional judgment, historical data and personal experience at this site and other DOE sites. Wherever possible, the SEB made adjustments using the Offeror's own proposed approach and cost information. Although the IGCE was not the primary basis for the cost realism analysis, it was used as a data point.

# Technical Evaluation of Cost Proposals

## INDEPENDENT GOVERNMENT COST ESTIMATE

- Plan for it
- Complete Prior to Receipt of Proposals
- Living Document
- WBS of IGCE and Proposals Must Be at the Same Level
- May Need To Revise IGCE After Proposal Receipt
  - Different Assumptions
  - Different Technical Approaches or Technology
- Important Most Probable Cost Tool

# Technical Evaluation of Cost Proposals

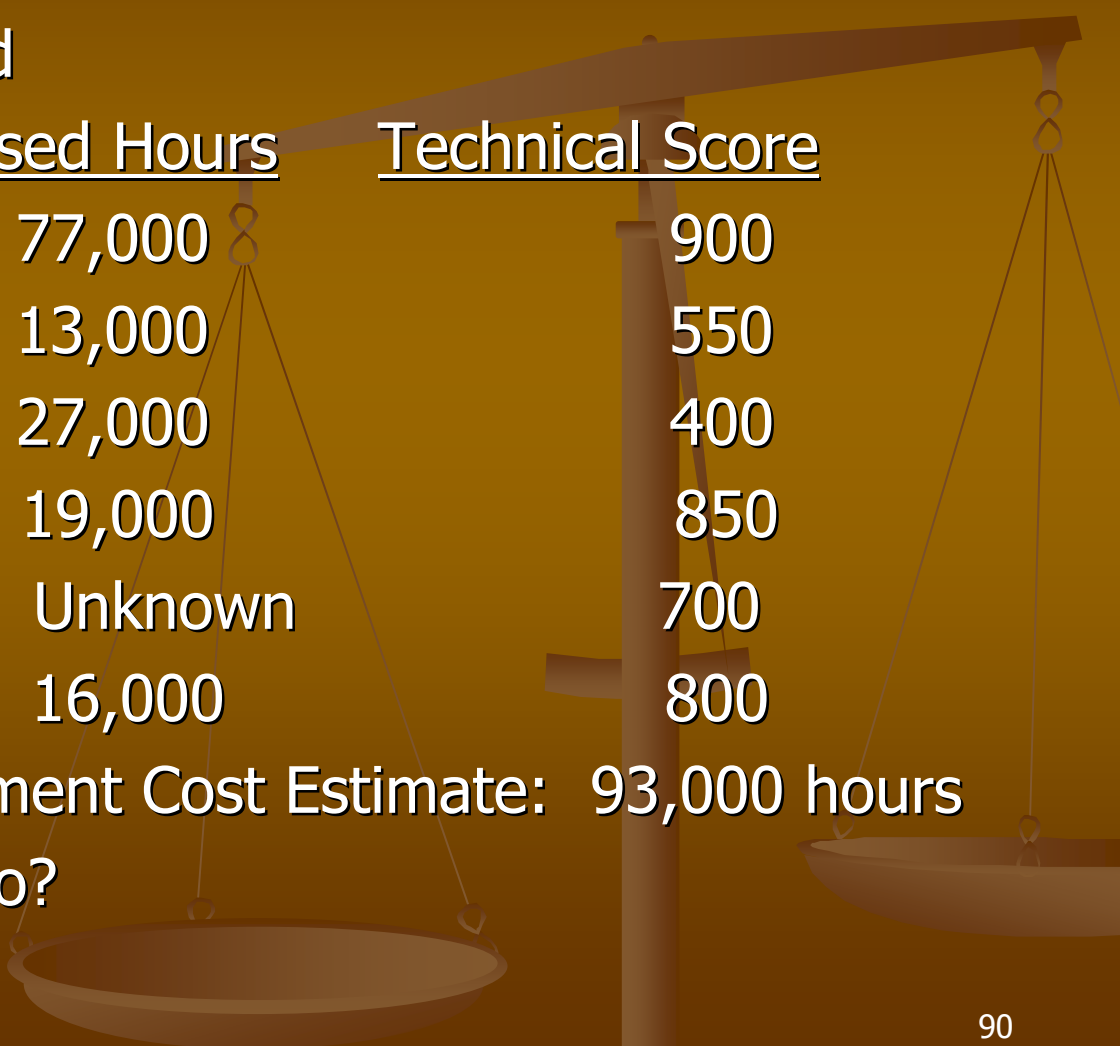
## Probable Cost Example

- **Proposed project manager salary \$250,000/year**
- **Independent government cost estimate lists the project manager salary as \$140,000/year**
- **What should the SEB do in determining a most probable cost?**

# Technical Evaluation of Cost Proposals

## Probable Cost Example

- EM Remediation CPIF Contract
- WBS: Sediment Pond



<u>Contractor</u>	<u>Proposed Hours</u>	<u>Technical Score</u>
A	77,000	900
B	13,000	550
C	27,000	400
D	19,000	850
E	Unknown	700
F	16,000	800

- Independent Government Cost Estimate: 93,000 hours
- What does the SEB do?

# Technical Evaluation of Cost Proposals

## What The SEB Report Said

“ This wide range of offerors’ costs causes the SEB a great deal of concern, especially since the SEB has neither a reliable IGCE for comparison purposes nor necessarily accurate data from the incumbent contractor due to the split out of the current contract to multiple new awards.”

# Technical Evaluation of Cost Proposals

## Probable Cost Example

- Infrastructure Support Contract
- Probable Cost Adjustments:
- Janitorial was decreased by five FTEs because the proposed number (13) was considered unreasonably high based on reliable known data (historical data for the entire site is six to eight FTEs) and higher FTEs were not justified by the technical approach.

# Technical Evaluation of Cost Proposals

## Probable Cost Example

- FTEs for roadway and parking lot maintenance were reduced because the offeror priced culvert and bridge repairs when DOE posted questions and answers indicated it should not.
- Three FTEs were added to real and personal property because it was not consistent with the technical approach. The skills indicated in the technical proposal were not listed in the cost proposal.
- One FTE was added for the Other Activities element of the SOW since the proposed number was lower than reasonable based on known data. Specifically, it was not clear that an FTE was proposed for the performance of mail services.

# Cost Realism & Probable Cost

(FAR 15.407-2; DOE AG Ch. 15.1, Part V)

- **Cost realism analysis documentation**
  - Sufficient documentation should be developed to support the conclusions reached for the probable cost
  - Analysis and documentation must support not only those costs that are not reasonable (resulting in an adjustment to the proposed cost) but the basis for the reasonableness of costs not questioned
  - Cost analysis must be definitive as to reasonableness or unreasonableness
  - If the SEB doesn't agree with the recommendations of the technical and cost analysis inputs, documentation should reflect the SEB's ultimate judgment on these issues
    - Don't leave conflicting analyses without reconciling
    - This issue is subject to protest

Source Selection for the Source  
Evaluation Board


# Cost Realism & Probable Cost

## Protest Example

Protest sustained. Cost issues that were found to have merit were:

- (1) that the agency's technical evaluation repeatedly stated that the offerors' staffing was adequate, but the cost realism evaluation increased the hours for certain staff for each offeror;
- (2) the cost realism adjustment for staffing was made by mechanically adjusting each offeror's program manager's hours to the government's undisclosed estimate, without consideration of each offeror's technical approach to performing the work including its planned utilization of the program manager (and the agency had publicly stated that the expected hours for the program manager were 300-360 a year instead of its estimate of 800 per year); and
- (3) in discussions, the agency requested and received a ceiling on indirect costs from one offeror but not the awardee, but when the agency awarded the contract, it included a ceiling for the awardee. GAO found that the imposition of this ceiling was a material change to the proposal and would have required another round of discussions, despite the fact that the agency asserted it had imposed the ceiling without any communications with the awardee, because the ceiling could not be imposed unilaterally by the agency.

# Break



Source Selection for the Source  
Evaluation Board

# Award Without Discussions

(FAR 15.306(a); DOE AG, Ch. 15.2, Part XI)

- **Awards may be made without determining a competitive range and conducting discussions with offerors in the competitive range**
  - RFP must state Government's intent to award without discussions
  - Proposals are complete and have no deficiencies that require discussions
    - "Deficiencies" are defined in FAR 15.001 as "a material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level."
- **Acquisition time can be shortened from solicitation to award if discussions are not needed**
- **Reduces cost to the offeror, *i.e.*, time is money**

# Award Without Discussions

(FAR 15.306(a); DOE AG, Ch. 15.2, Part XI)

- **Certain complex actions may not be conducive to award without discussions**
- **Consider on a case-by-case basis**
- **Actions not always appropriate for award without discussions**
  - Large CPIF contracts with complex cost proposals
  - Complex statements of work where specific technical approaches are to be evaluated
  - Features of the contract that may require an advance understanding or agreement with the contractor
  - Seeking a unique or different performance-based approach
    - Advance understanding on cost
    - Incorporation into the contract of technical or other aspects from the proposal
    - Negotiation/incorporation of unique contract provisions, *e.g.*, intellectual property

# Award Without Discussions

(FAR 15.306(a); DOE AG, Ch. 15.2, Part XI)

- **Certain circumstances encountered during proposal evaluation may prevent award without discussions, even to the highest rated technical proposal**

- Exception to the terms of the contract
- Insufficient information in the cost proposal to make a probable cost adjustment
- Performance guarantee improperly executed
- Fee proposed exceeds the limit in the RFP

- **Discussions may be warranted**

- To gain a better understanding of the proposals
- To obtain a better deal for the Government

- **Clarifications and award without discussions**

- Offerors may be given the opportunity to clarify certain aspects of proposals, if award is to be made without discussions
- Only examples in FAR are: in reference to past performance information and to resolve minor or clerical error
- Contracting Officer will determine whether an offeror will be given the opportunity to clarify its proposal

Source Selection for the Source  
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# Competitive Range

(FAR 15.306(c))

- **If discussions are to be conducted, a competitive range of offerors must first be established**
  - Determined by the Contracting Officer
  - Concurrence by the SSO
  - Competitive range report prepared by the Contracting Officer
- **The competitive range consists of the “most highly rated proposals”**
  - Consider non-cost and cost factors
  - May be reduced to a number at which an efficient competition can be conducted
  - Must have a reasonable chance of being selected for award
  - Consider the extent to which weaknesses can be corrected
  - Where there is doubt as to whether or not an offeror should be included, include that offeror

# Discussions/Negotiations

(FAR 15.306(d),(e))

- **Discussions/negotiations are exchanges (written or oral) with all offerors in the competitive range that are undertaken with the intent of:**
  - Allowing offerors to revise proposals
  - Enhance the Government's ability to obtain the best value from each offeror
- **Terms “discussions” and “negotiations” are synonymous in this context**

# Discussions/Negotiations

(FAR 15.306(d),(e))

- **Negotiations may include “bargaining”**
  - Persuasion, alternation of assumptions and positions, and give-and-take
  - Negotiations may apply to price, schedule, technical requirements, and other terms of the proposed contract
- **Negotiations must disclose to the offeror deficiencies, significant weaknesses, and adverse past performance information to which the offeror has not yet had an opportunity to respond.**
  - The Contracting Officer is encouraged to discuss other aspects of the proposal that could be altered or explained to enhance the offeror’s potential for award
  - The Contracting Officer is not required to discuss every area where the proposal could be improved
  - While FAR 15.306(d) only requires “significant weaknesses” to be disclosed, “weaknesses” if so identified by the SEB should also be disclosed

Source Selection for the Source  
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# Discussions/Negotiations

(FAR 15.306(d),(e))

## ■ **Negotiations must not**

- Favor one offeror over another
- Reveal an offeror's technical solution/approach to another offeror
- Reveal an offeror's price to another offeror without that offeror's permission
- Reveal the names of individuals providing reference information about an offeror's past performance
- Reveal source selection information, *e.g.*, rating plan

## ■ **Negotiations must be “meaningful” and tailored to each offeror's proposal**

- Aspects of the proposal that are not understood must be addressed during negotiations in order for the SEB to perform a comprehensive evaluation
- Seek to get the offeror to revise its proposal to increase its value to the Government
- Provide the SSO the ability to select from the best of the best

Source Selection for the Source  
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# Discussions/Negotiations

(FAR 15.306(d),(e))

- **The weaknesses and deficiencies from the SEB report should be provided to offerors prior to discussions**
  - This is often done verbatim from the SEB report
- **Request additional information on the cost proposal where offeror has not adequately supported its cost proposal and there is not a clear basis to determine a probable cost**
- **Offerors may be told that its price is too high or too low and reveal the results of the analysis supporting that conclusion**
- **The Government may disclose to all offerors the cost or price that the Government's price analysis, market research, or other reviews used to determine reasonableness**
- **Identify other matters for discussion that may not be weaknesses or deficiencies but will improve the Government's understanding of the proposal**

# Proposal Revisions

## Final Proposal Revisions

(FAR 15.307)

- **Purpose: Clarify or document understandings reached during discussions**
- **Proposal revisions may be obtained at any time during discussions**
- **Don't request final revised proposals until the SEB has sufficient information and understanding to complete its evaluation**
  - Ask for revised proposals when appropriate
  - Delay requesting final revised proposals until all appropriate information has been discussed
- **Final proposal revisions required at the conclusion of discussions from all offerors still in the competitive range; common cut-off date for receipt**

Source Selection for the Source  
Evaluation Board

# Proposal Revisions

## Final Proposal Revisions

(FAR 15.307)

- **For final proposal revisions, advise offerors the Government intends to make award without obtaining further revisions**
  - If negotiations are still needed after receiving final proposal revisions, offerors may be given the opportunity to submit a second, final proposal revision
- **Clearly instruct offerors as to how proposal revisions/final proposal revisions are to be submitted**
  - Summary document or revised/changed pages
  - Specify whether any page limitations apply
  - Clarify whether any aspects of the proposal are to be incorporated into the contract and be specific
  - Require a new, signed SF 33, Solicitation, Offer, and Award

# Guidance to Individual Evaluators Evaluating Proposals

- Evaluate the proposal
- Don't infer knowledge based on personal familiarity with the offeror
- Don't downgrade an offeror for failing to address an area not covered in the criteria
- Don't compare offerors to each other  
(this is to be done by the SSO during selection)

# Guidance to Individual Evaluators

## Rules to Remember

- Do not “read into” the proposal  
(if vague, identify it as a weakness)
- Focus on proposal content and substance rather than style, format & buzz words
- Tie identified strengths/weaknesses to the evaluation criteria  
(Never reword the evaluation criteria!)
- Write down questions, areas of uncertainty, and things needing clarification

# Guidance to Individual Evaluators (Suggested Process)

## Steps

1. Become familiar with entire proposal
2. Read each section thoroughly
3. Identify strengths & weaknesses
4. Draft consensus narratives for each strength & weakness
5. Do not assign a rating / score  
(the SEB will do this AFTER determining the strengths and weaknesses, during consensus)

# SEB Report

## Write-up of Strengths & Weaknesses

- Cite relevant evaluation criteria
- Cite relevant proposal pages
- Describe what is good/bad about the proposal that warrants a strength or weakness – the “so what”
- Explain how significant are the strengths & weaknesses
- State why the strengths/weaknesses are minor or significant

# SEB Report

## Good vs. Bad Documentation

### **Example of a “good weakness”:**

OFFEROR proposed a new strategy and approach for the safe storage enclosure for each reactor to be placed into ISS (a free-standing steel structure for B Reactor, KE Reactor, KW Reactor, and N Reactor). The features include a simplified approach to design and install the safe storage enclosure, elimination of connections to the existing reactor building, and a simplified, less-invasive approach to surveillance and monitoring. OFFEROR failed to demonstrate the viability of this strategy and approach. Project impacts and approach to address each impact were not demonstrated. SEB concerns include: 1) the impact to regulatory documentation and approvals and the potential for revision; 2) changes to the remediation design bases, seismic analysis, and other design analyses; 3) ability to meet surveillance and maintenance requirements; and 4) ability to meet the 75-year life requirement for the safe storage enclosure. The failure to demonstrate the viability of this approach increases the risk that the proposed strategy and approach can be successfully applied for the safe storage enclosure, and that the asserted benefits can be achieved [Volume II, Pages XX].

# SEB Report

## Good Documentation

- **Clearly relates to evaluation criterion**
- **Substance of proposal reflected**
- **The “So What”**
- **Emphasis on substance not style**
- **Reference to proposal information used**

# SEB Report

(FAR 15.305(a); 15.308; DOE AG Ch. 15.1, Part XII)

- **The relative strengths, deficiencies, significant weaknesses, cost/fee evaluation, and risks must be documented in the SEB report**
  - Acquisition Guide contains an outline of topics to be included in the SEB report
- **Report must reflect the deliberations of the SEB and be consistent with the RFP and the rating plan**
  - If advisory reports reflect significantly different evaluation from SEB conclusions, this should be reconciled in the SEB report

# SEB Report

(FAR 15.305(a); 15.308; DOE AG Ch. 15.1, Part XII)

- **Start writing the report early – process description**
- **Review samples but remember each procurement is different**
- **Components – process description, technical evaluation, cost evaluation, resolution of discussions**
- **Check for consistent treatment of offerors as you draft**

Source Selection for the Source  
Evaluation Board

# SEB Report – BIG THEMES

## DO

- Document, Document, Document
- Be Narrative – remember your audience
- Be Complete

## DON'T

- Be Mechanical
- Be Ostriches
- Be Inconsistent

Source Selection for the Source  
Evaluation Board

# SEB Report

(FAR 15.305(a); 15.308; DOE AG Ch. 15.1, Part XII)

- **Evaluations and ratings must be substantiated by specific strengths, weaknesses, deficiencies and risks to be considered credible and justifiable**
  - Numerical scores, adjectival ratings, or other techniques are not conclusive upon which to make source selection decisions
  - General assessments such as weak, poor, or excellent must be supported with specific reasons as to why the cited aspect of the proposal is weak, poor, or excellent
- **Does the report include a recommendation for selection?**
  - If SSO requires, yes
  - Normally a selection recommendation is not made

# SEB Report

## The Most Important Document in GAO Protests and Hearings



Source Selection for the Source  
Evaluation Board

# SEB Report

(FAR 15.305(a); 15.308; DOE AG Ch. 15.1, Part XII)

- **If a competitive range was determined, SEB report should address how weaknesses were resolved after discussions**
  - What was proposed in final revised proposal
  - What is SEB's evaluation of the final revised proposal
  - Does the final revised proposal eliminate the weakness
  - This demonstrates that meaningful discussions were provided
- **When drafting the strengths and weaknesses for the SEB report, consider this to be the specific documentation that will be given to offerors for debriefs**
  - Structure strengths and weakness to identify what was proposed, what is good or bad, what is the effect, and how it relates to the evaluation criteria
  - Make the strengths and weaknesses understandable as stand-alone statements as much as possible
  - Make sure all strengths and weaknesses are within the evaluation criteria
  - Caution about past performance reference information
- **Consider the SEB report as the first line of defense in a protest, *i.e.*, make it clear, fair, consistent with the RFP, and definitive**

# SEB Report

(FAR 15.305(a); 15.308; DOE AG Ch. 15.1, Part XII)

- **Critical to identify the issues that require special attention based on the specifics of the deal, the proposals, and the outcome of the evaluation – “Why is one proposal so much less expensive than another?,” “Why are the proposals rated the same but have significantly different numbers of strengths and weaknesses?”**
- **Ask yourselves – Is this a documented report that can form the foundation of a good decision?**

Source Selection for the Source  
Evaluation Board

# SEB Report

## Other Issues in the Report

- FOCI
- Responsibility
- Small business size status
- OCI
- These issues are CO's responsibility ultimately, but may be covered in the report as one way of documenting the issues

# HANDMAIDENS!


- **Role of SEB vis-à-vis the SSO – provide the information needed for the SSO to make a decision**
- **If SSO needs more information, provide it**
- **Continue to take care to stay within the evaluation criteria**

Source Selection for the Source  
Evaluation Board

# SEB Briefing to SSO

- Normally the SEB formally briefs the SSO
- Briefing consists of the key points from the SEB report
- All SEB members and selected advisors, as appropriate, should attend or otherwise be available to answer questions
- Advise SSO of various viewpoints considered to arrive at SEB consensus
- Make available as the SSO desires: SEB report, sub-team reports, proposals, etc.
- Pre-briefing to *ex officios* can be beneficial

# Break



Source Selection for the Source  
Evaluation Board

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# Source Selection Decision

## **SSO ROLES AND RESPONSIBILITIES:**

- **Manage the process**
- **Get the information to make the decision**
- **Potential to testify – prepare for that eventuality**

Source Selection for the Source  
Evaluation Board

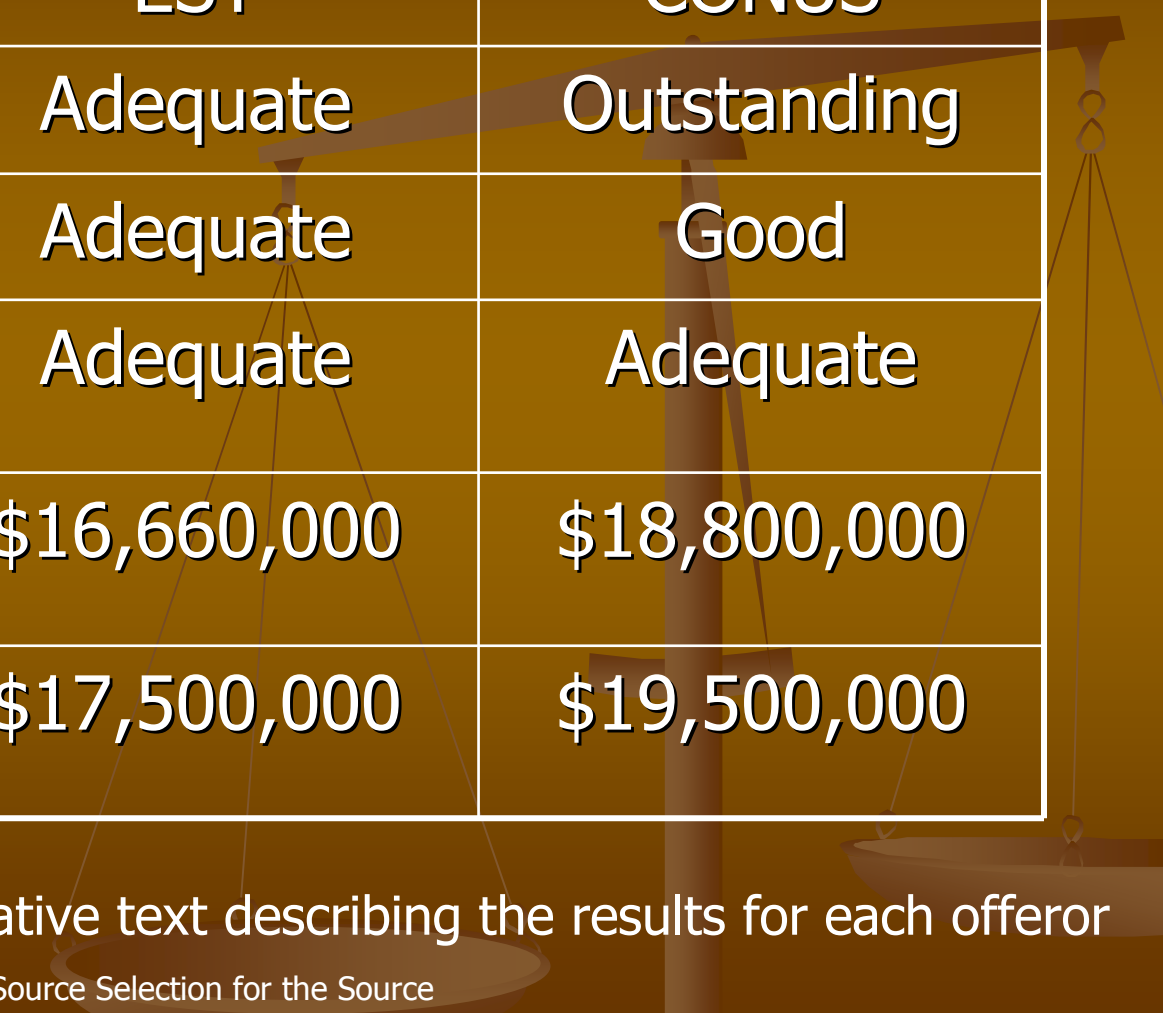
# Source Selection Decision (Sample Outline)

- A. Introduction
- B. Description of Acquisition
- C. Solicitation & Submission of Proposals
- D. Evaluation Criteria & Procedures
- E. Summary of Evaluation Results
  - 1. Technical
  - 2. Cost / Price
- F. Comparative Assessment of Proposals
- G. Selection Decision

Source Selection for the Source  
Evaluation Board

# Source Selection Decision

## Summary of Evaluation Results



	EST	CONUS
Technical Quality	Adequate	Outstanding
Past Performance	Adequate	Good
Small Business Commitment	Adequate	Adequate
Proposed Cost/Fee	\$16,660,000	\$18,800,000
Most probable cost/fee	\$17,500,000	\$19,500,000

The above chart plus a narrative text describing the results for each offeror

# Source Selection Decision

## Comparative Assessment of Proposals

**EXAMPLE:** CONUS demonstrated outstanding technical quality based on the strength of its oral presentations and proposed key personnel. For example, in oral presentations (the most important sub-criteria), while EST was rated technically adequate overall, CONUS truly excelled in its presentations, demonstrating a far greater knowledge of combustion engineering, combustion devices, combustion control devices, compliance monitoring, applicable statutes, regulations, and statistics. This difference was most evident in the discussions about defining the Maximum Achievable Control Technology (MACT) Floor Control for boilers and in the area of compliance monitoring. For example, in discussing the MACT for boilers, EST correctly stressed that the Agency must understand the design, operation and maintenance (DOM) features when collecting relevant data. CONUS, however, showed greater depth of knowledge by going on to discuss the difficulty that would likely be encountered in characterizing DOM characteristics for boilers, due the lack of good documentation, and then providing an innovative approach to resolving the problem. Because of the superior depth and breadth of CONUS' technical knowledge and proposed staff, the Government has far greater confidence in this firm's ability to meet the SOW requirements.

# Source Selection Decision

## (Assuming Tech/Cost Tradeoff)

- Justify why CONUS is (or is not) worth the additional \$2,000,000 in cost & fee.
- State the benefits in real terms
- If possible, tie perceived benefits to mission critical contract requirements (consistent with RFP evaluation criteria)

# Source Selection Decision

## How Not to Write a Selection

CONUS' technical proposal was categorically superior to EST's technical proposal overall. Since the non-cost factors are considered more important than cost, CONUS is selected for award of the contract.

- The above example does not state the benefit in real terms
- Does not demonstrate that the perceived benefits of the higher priced proposal merits the additional cost (as required by FAR 15.101-1(c))

# Source Selection Decision

## How Not to Write a Selection

(assuming a numerical scoring system)

CONUS' technical score was 10% higher than EST's but only 5% higher in estimated cost and fee. Since technical is more important than cost, CONUS' proposal represents the best value to the Government. CONUS is therefore selected for award.

- Again, benefit not stated in real terms
- Does not demonstrate that the perceived benefits of the higher priced proposal merits the additional cost
- Note: Not required to estimate dollar values for specific benefits, *i.e.*, "The added technical expertise is worth an additional x dollars."

# Source Selection Decision

## An Acceptable Selection Statement

CONUS' proposal offers the best value to the Government, technical and cost factors considered. Because quality of the selected contractor can impact the Agency's ability to establish enforceable MACT standards, allowing the Government to avoid considerable incidental costs associated with enforcement litigation, CONUS' considerable technical superiority is clearly worth the additional \$2,000,000 in probable cost and fee relative to EST's proposal.

- The above selection statement is acceptable taken in the context with the previous comparative assessment
- Expresses CONUS' added value in real terms
- Ties benefits to mission critical contract requirements, consistent with the evaluation criteria

# Document Preparation and Retention

- **Electronic documents make life easier, mostly**
- **Collect and categorize documents along the way**
  - **Be sure documents are dated with page numbers**
  - **Keep a copy of all final documents in a common database or folder**
  - **If documents are posted to a procurement website, do not take down until after award**
- **Document consideration of unusual issues (status of incorporation of offeror, procurement integrity issues, etc.)**

# If You Keep Up, You Won't Sink



Source Selection for the Source  
Evaluation Board

# Debriefing of Offerors

(FAR 15.505; 15.506; DOE AG Ch. 15.1, Part XVI)

- **Offerors may request a debriefing**
  - **Pre-award** – within 3 days of notification of exclusion from the competitive range; or may request delay until post award
  - **Post-award** – within 3 days of notification of award
  - In the government's notification letter, advise offerors that a debriefing is available and provide the date (4-8 days after notification)
  - Put burden on offerors to accept or reject the date of a post-award debriefing; this may start the protest clock for mandatory stay of performance
- **Debriefing may be in writing or orally (phone or face-to-face meeting)**

# Debriefing of Offerors

(FAR 15.505; 15.506; DOE AG Ch. 15.1, Part XVI)

- **Purpose of a debriefing**
  - Enable offeror to understand the evaluation of its proposal
  - Inform offeror of any significant weaknesses and deficiencies
  - Provide essential information on rationale for source selection decision
  - Answer reasonable questions about the process
- **Participation in Debriefing**
  - Contracting officer or SEB chairperson should conduct
  - Supported by SEB members, as appropriate, to respond to questions
  - SEB counsel

Source Selection for the Source  
Evaluation Board

# Debriefing of Offerors

(FAR 15.505; 15.506; DOE AG Ch. 15.1, Part XVI)

Debriefing information includes	
Pre-award	Post-award
Significant weaknesses or deficiencies in the offeror's proposal - Provide strengths and weaknesses from the SEB report	Significant weaknesses or deficiencies in the offeror's proposal - Provide strengths and weaknesses from the SEB report
Past performance information on the debriefed offeror - May not include the names of individuals providing information [keep in mind when writing the SEB report]	Past performance information on the debriefed offeror - May not include the names of individuals providing information [keep in mind when writing the SEB report]
Summary of the rationale for eliminating the offeror from the competition	Summary of the rationale for award
Reasonable questions about the source selection process and applicable regulations	Reasonable questions about the source selection process and applicable regulations
Evaluated cost/price of the debriefed offeror - Do not disclose any information, <i>e.g.</i> , nature of adjustment, that would disclose SEB's approach to other offerors' evaluation	Evaluated cost/price of the successful offeror and the debriefed offeror, the <b>overall</b> technical rating of the successful offeror, and the technical ratings of the debriefed offeror

# Debriefing of Offerors

(FAR 15.505; 15.506; DOE AG Ch. 15.1, Part XVI)

## ■ Pre-award Debriefing Does Not Include

- Number of offerors
- Identity of other offerors
- Content of other offeror proposals
- Ranking of other offerors
- Evaluation of other offerors
- Information prohibited from disclosure in post-award debriefing

## ■ Post-award Debriefing Does Not Include

- Point by Point comparisons of debriefed offerors' proposals with those of other offerors
- Information exempt from release under FOIA (trade secrets, confidential commercial or financial information)
- Names of individuals providing reference information about offeror's past performance

# Debriefing of Offerors

(FAR 15.505; 15.506; DOE AG Ch. 15.1, Part XVI)

- **Be Prepared (dry runs are necessary; all documents prepared in advance)**
- **Request offeror to submit questions in advance**
- **Debriefing Chair (SEB Chair or CO) controls meeting**
- **Provide a Handout**
- **Disclose the ground rules and format at outset**
  - **Why we are here – provide additional information about the evaluation of your proposal**
  - **What we can't divulge – information on other offeror's proposals**
  - **Note the information provided to the offeror in advance, *e.g.*, strengths, weaknesses, evaluated cost/price**
  - **Be prepared to answer questions submitted and others as appropriate**
  - **Focus on the substance of the strengths/weaknesses, not the number or the ratings/score**
- **Disclose Offeror's Full Evaluation (except names of past performance references)**

# Debriefing of Offerors

(FAR 15.505; 15.506; DOE AG Ch. 15.1, Part XVI)

- **Be Specific – focus on particular aspects of proposals in communicating strengths, weaknesses or deficiencies.**
- **Speak with one voice**
- **Stick to Script**
  - Procurement process defined in the RFP and the rating plan
  - Selection based on the defined process
  - Evaluation provided to the offeror
    - Anything added to the strengths and weaknesses already provided opens up the potential that the record is not complete
    - Nothing much that can/should be added to the strengths/weaknesses provided
- **Be vigilant about improper disclosures – “Sorry, I can’t answer that; you wouldn’t want me to disclose your information to another offeror either.”**
- **Be honest and point out positives**
- **Image is important – look like you know what you’re doing**
- **Don’t argue – either with offeror or among yourselves**
- **Solicit offeror’s views – establish dialogue to extent possible**

# Debriefing of Offerors

(FAR 15.505; 15.506; DOE AG Ch. 15.1, Part XVI)

- **Reasonable Responses to Relevant Questions**
  - **Most difficult aspect of debriefings**
  - **Ask for questions in advance (point out will enable more comprehensive response)**
  - **Dry run answers to most likely questions (practice adversarial environment)**
  - **Tell offeror to hold additional question until conclusion of debriefing narrative**
  - **Caucus to establish collective response to questions**
  - **Be as forthright and complete as possible within limits of regulations**
  - **Some information cannot be disclosed**
  - **Don't argue with offeror about what information can be provided— control process**

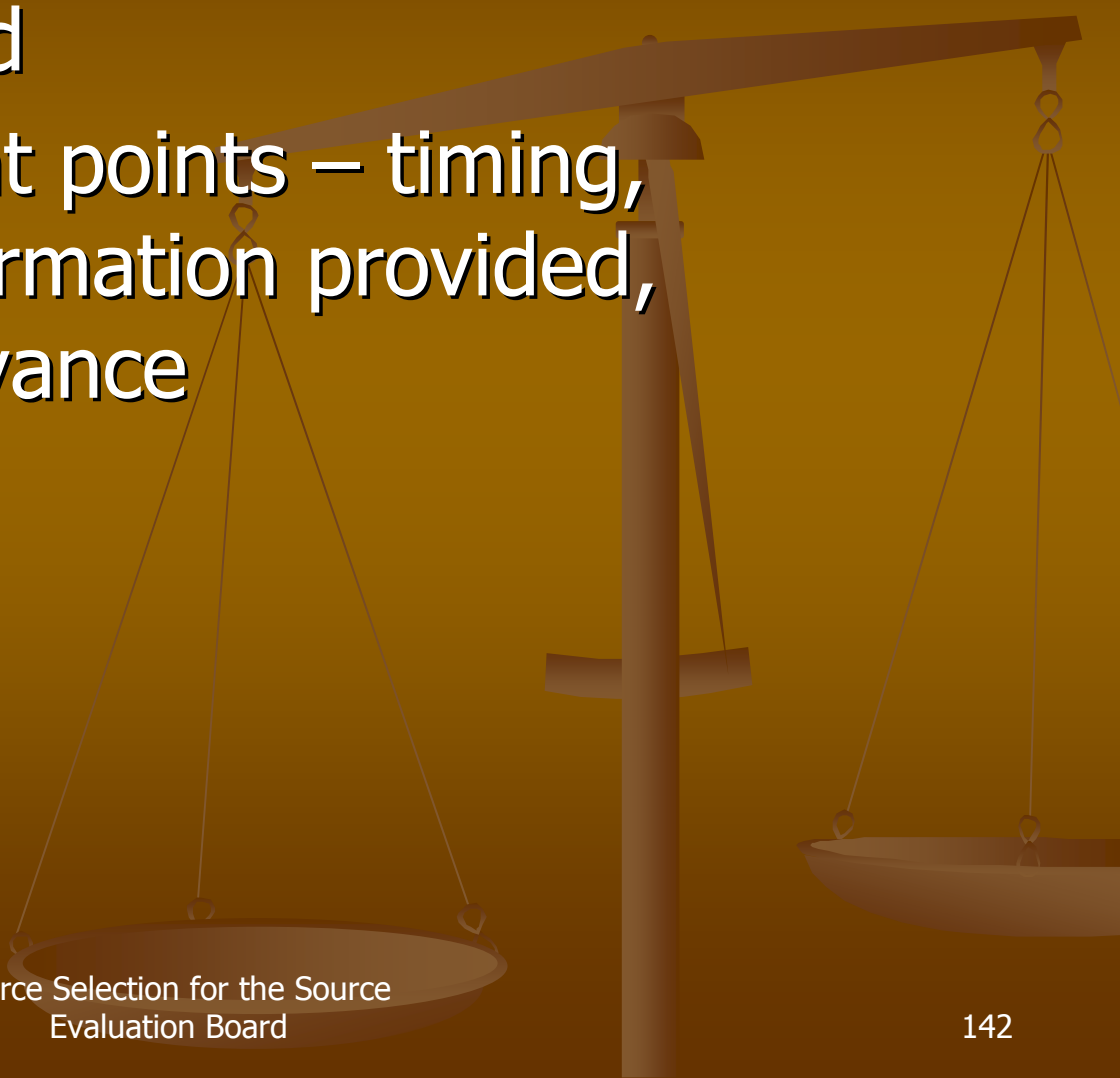
# Debriefing of Offerors

(FAR 15.505; 15.506; DOE AG Ch. 15.1, Part XVI)

- **Bring the debriefing to a close**
  - Affirmatively state briefing has concluded
  - If agree to try to obtain further information in response to questions, declare that is not an extension of debriefing
  - Protest clock does not start until the debriefing is officially over
- **Debriefings properly conducted can discourage a protest (or at least limit protest grounds)**
- **Debriefings improperly conducted can encourage a protest**

# Sample Debriefing Letter

- Sample Provided
- Review pertinent points – timing, scheduling, information provided, questions in advance



Source Selection for the Source  
Evaluation Board

# Open Book Debriefing

- Selective option in which all offerors agree to disclosure of more information than can otherwise be provided in a debriefing
- Essentials – unanimity, agreement on info. to be provided, address Trade Secrets Act, plan for the process prior to award, use only in appropriate cases
- Document support available from GC-61

# Common Protest Issues

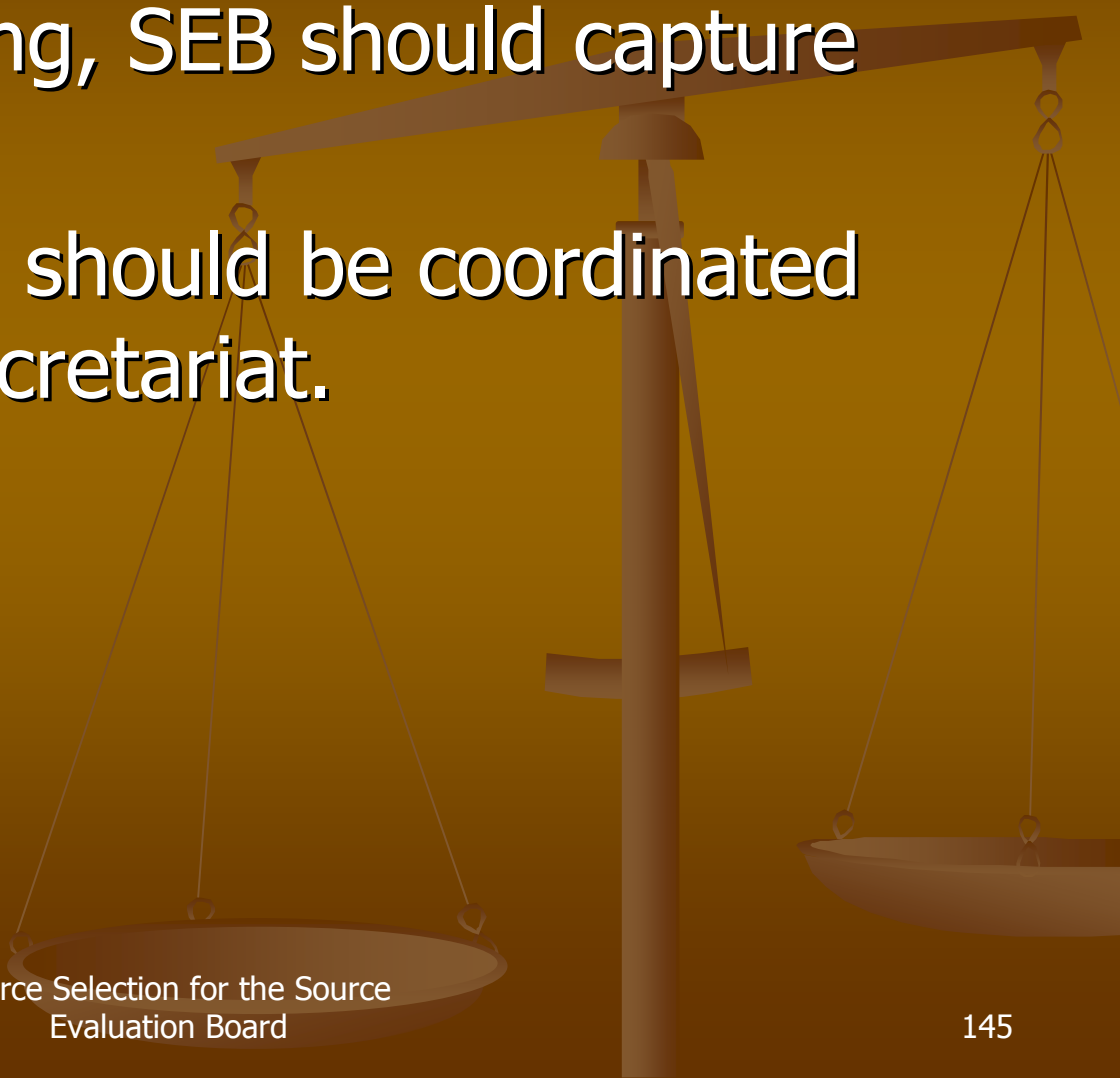
(FAR 15.507; FAR 33)

- **Unstated evaluation criterion**
  - Evaluating a proposal based on a factor not included in the evaluation criteria in section M
- **Unreasonable technical evaluation**
  - Technical evaluation is not well founded, not based on logical reasoning, or not well documented
- **Unreasonable cost evaluation**
  - Evaluation did not adequately analyze the proposed costs
  - Probable cost adjustments not based on logical reasoning and calculations
  - The cost evaluation is not well documented
- **Poor technical-cost trade-off**
  - Not consistent with the solicitation
  - Not based on logical reasoning
- **Failure to follow the evaluation factors**
  - Some evaluation factors not properly considered

Source Selection for the Source  
Evaluation Board

# Lessons Learned

- Before disbanding, SEB should capture lessons learned.
- Lessons learned should be coordinated with the SEB Secretariat.



Source Selection for the Source  
Evaluation Board

After all this,  
now Business  
Clearance ?



## DOE Contracting Officer

Source Selection for the Source  
Evaluation Board

# HQ Business Clearance

(DEAR 971; DOE AG Ch. 71)

- **Annual call identifies actions selected for review**
- **Documents which may be reviewed for major procurements**
  - SSO and SEB designation
  - Site Utilization and Management Plan
  - Acquisition Plan
  - Draft (public) and final RFP
    - Expect several revisions
  - Draft Rating Plan (at time of draft RFP)
  - Draft SEB report (prior to submittal to SSO)
    - Expect several revisions
  - Draft source selection decision
    - Expect several revisions
  - Communications plan for award
  - Draft press release announcing award
- **Engage your HQ “buddy” early and throughout the acquisition process**

Source Selection for the Source  
Evaluation Board

# How The Business Clearance Process Works

- **Contracting Office submits action for review**
- **Office of Contract Management (MA-62) initiates “clearance process”**
  - **Key HQ offices: GC-61; MA-61; MA-63; GC-62; ED-3; EH; OECM; Program Office**
- **10 work day review cycle (to get comments to the CO)**

# How The Business Clearance Process Works

- Impediments to timely review
  - Incomplete submissions
  - Lack of field office internal reviews
  - Lack of adequate advance planning
  - Lack of field office functional office discussing and resolving significant issues with their HQ counterparts

# Wrap Up

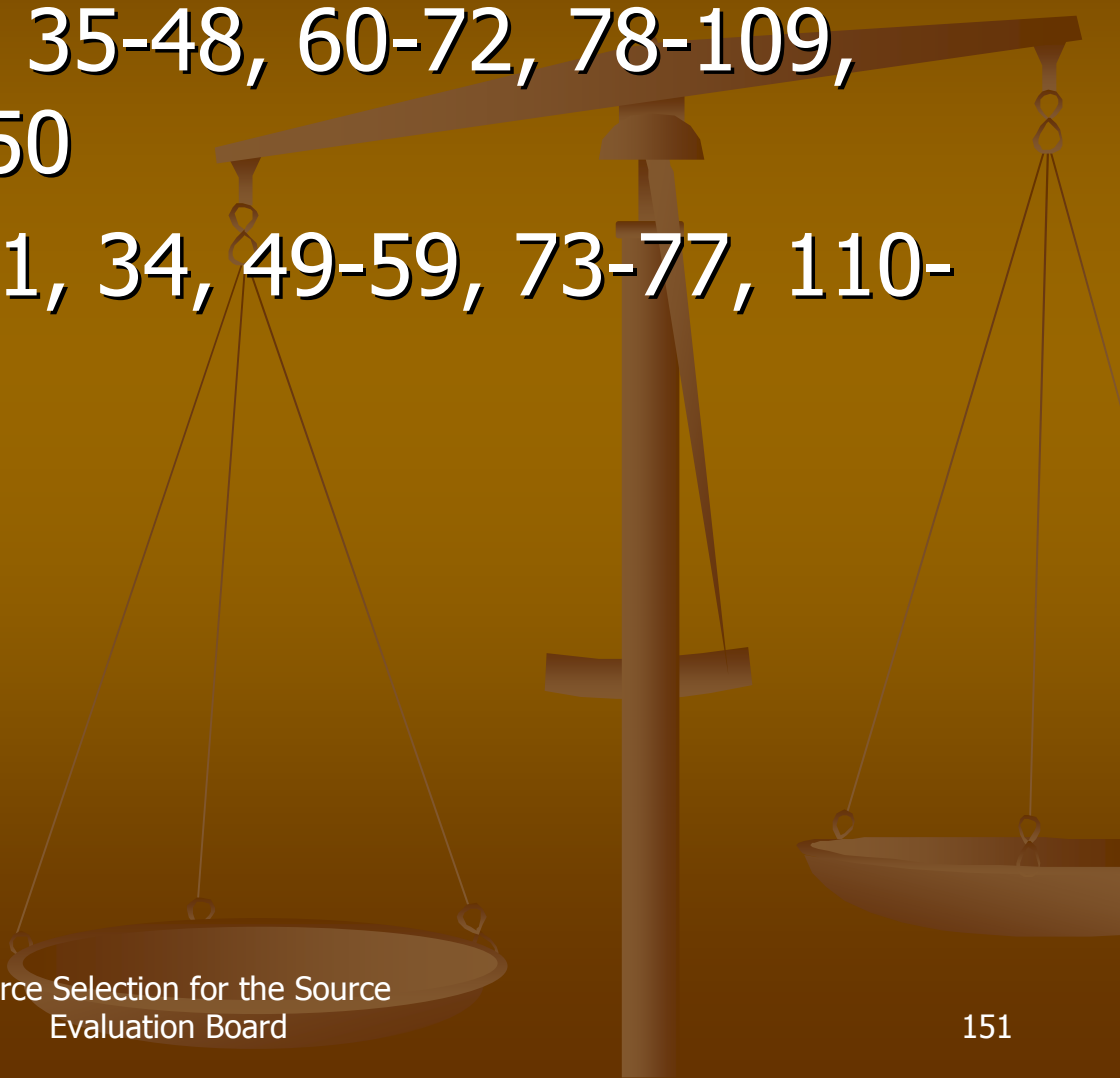
- Questions
- Follow up



The dock at base camp, Cathance Lake, Maine.

# Division of Labor

- Jeff 1-14, 32-33, 35-48, 60-72, 78-109, 124-131, 145-150
- Charmaine 15-31, 34, 49-59, 73-77, 110-123, 132-144



Source Selection for the Source  
Evaluation Board